

2005 No. 305

HEALTH AND SAFETY

**The Control of Major Accident Hazards (Amendment)
Regulations (Northern Ireland) 2005**

Made - - - - - *20th June 2005*

Coming into operation *25th July 2005*

The Department of Enterprise, Trade and Investment(**a**) being a Department designated(**b**) for the purposes of section 2(2) of the European Communities Act 1972(**c**) in relation to measures relating to the prevention and limitation of the effects of accidents involving dangerous substances, in exercise of the powers conferred on it by the said section 2(2) and being the Department concerned(**d**), in exercise of the powers conferred by Articles 17(1) to (5), 40(2) and (4) and 55(2) of, and paragraphs 1(1) and (2), 14(1), 15 and 19 of Schedule 3 to, the Health and Safety at Work (Northern Ireland) Order 1978(**e**) and of every other power enabling it in that behalf, and for the purpose of giving effect without modifications to proposals submitted to it by the Health and Safety Executive for Northern Ireland under Article 13(1A) of that Order(**f**) after the carrying out by the said Executive of consultations in accordance with Article 46(3) of that Order(**g**), hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Control of Major Accident Hazards (Amendment) Regulations (Northern Ireland) 2005 and shall come into operation on 25th July 2005.

(2) The Interpretation Act (Northern Ireland) 1954(**h**) shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

Amendment of the Control of Major Accident Hazards Regulations (Northern Ireland) 2000

2.—(1) The Control of Major Accident Hazards Regulations (Northern Ireland) 2000(**i**) shall be amended in accordance with the following paragraphs.

(2) Paragraph (1) of regulation 2 (Interpretation) shall be amended as follows –

(**a**) Formerly the Department of Economic Development: *see* S.I. 1982/846 (N.I. 11), Article 3 and S.I. 1999/283 (N.I. 1), Article 3(5)
(**b**) S.I. 1998/1750
(**c**) 1972 c. 68: the enabling powers conferred by section 2(2) were extended by virtue of section 1 of the European Economic Area Act 1993 (c. 51)
(**d**) *See* Article 2(2) of S.I. 1978/1039 (N.I. 9)
(**e**) S.I. 1978/1039 (N.I. 9); Article 17 must be read with S.I. 1992/1728 (N.I. 17), Articles 3 and 4
(**f**) Article 13(1) was substituted by S.I. 1998/2795 (N.I. 18), Article 4
(**g**) Article 46(3) was amended by S.I. 1998/2795 (N.I. 18), Article 6(1) and paragraphs 8 and 18(c) of Schedule 1
(**h**) 1954 c. 33 (N.I.)
(**i**) S.R. 2000 No. 93

- (a) in the definition of “the Directive”, after the word “substances”, add the words “as amended by Directive 2003/105/EC of the European Parliament and of the Council of 16 December 2003^(a)”;
- (b) for the definition of “notify” there shall be substituted –
 - “ “notify” means notify –
 - (a) in writing, including an email; or
 - (b) by such other means as the recipient may allow.”.
- (3) Regulation 3 (Application) shall be amended as follows –
 - (a) In paragraph (3), for sub-paragraphs (c) and (d) there shall be substituted –
 - “(c) the exploration, extraction and processing of minerals in mines, quarries or by means of boreholes, except –
 - (i) chemical and thermal processing operations; and
 - (ii) storage relating to those operations,
 which involve dangerous substances; and
 - (d) waste land-fill sites, except tailing ponds or dams and other operational tailings disposal facilities containing dangerous substances, in particular when any such facilities are used in connection with the chemical and thermal processing of minerals.”.
 - (b) Regulation 3(4) shall be revoked.
- (4) For paragraph (1) of regulation 5 (Major accident prevention policy), there shall be substituted –
 - “**5.**—(1) Every operator shall without delay but at all events within 3 months after the establishment becomes subject to this regulation prepare, and thereafter keep, a document setting out his policy with respect to the prevention of major accidents (in these Regulations referred to as a “major accident prevention policy document”).”.
- (5) Regulation 6 (Notifications) shall be amended as follows –
 - (a) After paragraph (3) there shall be inserted –
 - “(3A) Where paragraphs (1) to (3) do not apply, the operator of the establishment shall send to the competent authority a notification containing the information specified in Schedule 3 within 3 months after the establishment becomes subject to this regulation.”.
 - (b) In paragraph (4)(b)(iii), after “authority”, there shall be inserted “under this regulation”.
 - (c) After paragraph (4)(b) there shall be inserted –
 - “(ba) modification of the establishment or an installation which could have significant repercussions with respect to the prevention of major accidents;”.
- (6) After paragraph (10) of regulation 7 (Safety report) there shall be inserted –
 - “(10A) Where paragraphs (1) to (10) do not apply, the operator shall, subject to paragraph (12), without delay, but at all events within 1 year after the establishment becomes subject to this regulation, send to the competent authority a report which is sufficient for the purpose specified in Part I of Schedule 4 and comprising at least the information specified in Part II of that Schedule.”.
- (7) Regulation 8 (Review and revision of safety report) shall be amended as follows –
 - (a) For paragraph (1) there shall be substituted –
 - “**8.**—(1) Where a safety report has been sent to the competent authority the operator shall, subject to paragraph (3), review it –
 - (a) whenever the operator makes a change to the safety management system (referred to in paragraph 1 of Part I of Schedule 4) which could have significant repercussions with respect to the prevention of major accidents or the limitation of consequences of major accidents to persons and the environment;

(a) O.J. No. L345, 31.12.2003, p. 97

- (b) whenever such a review is necessary because of new facts or to take account of new technical knowledge about safety matters; and
 - (c) fully at least every 5 years,
- and where in consequence of that review it is necessary to revise the report, the operator shall do so forthwith and notify the competent authority of the details of such revision.”.
- (b) In paragraph (2) –
 - (i) for “inform” there shall be substituted “notify”;
 - (ii) for “(1)(a)” there shall be substituted “(1)(c)”.
 - (c) In paragraph (3), for “(1)(a)” there shall be substituted “(1)(c)”.
 - (d) In paragraph (4)(b), for “inform” there shall be substituted “notify”.
- (8) Regulation 9 (On-site emergency plan) shall be amended as follows –
- (a) In paragraph (2), for sub-paragraph (c) there shall be substituted –
 - “(c) in the case of an establishment which has not started to operate, before it starts to operate;
 - (d) in any other case, without delay but at all events within 1 year after the establishment becomes subject to this regulation.”.
 - (b) In paragraph (3)(a), for “employed” there shall be substituted “working”.
- (9) In paragraph (1) of regulation 11 (Review and testing of emergency plans), after the words “major accidents”, add the words “and, in the case of a review of an off-site emergency plan, shall involve consultation by the Executive of such members of the public as it considers appropriate”.
- (10) For paragraph (1) of regulation 14 (Provision of information to the public) there shall be substituted –
- “**14.**—(1) The operator of an establishment shall –
- (a) ensure that –
 - (i) every person who is likely to be in an area referred to in paragraph (2); and
 - (ii) every school, hospital or other establishment serving the public which is situated in such area,

is supplied regularly and in the most appropriate form, without their having to request it, with information on safety measures at the establishment and on the requisite behaviour in the event of a major accident at the establishment; and
 - (b) make that information permanently available to the public.”.
- (11) For Schedule 1 (Dangerous substances to which the Regulations apply) there shall be substituted the Schedule set out in the Schedule to these Regulations.
- (12) Schedule 2 (Principles to be taken into account when preparing major accident prevention policy document) shall be amended as follows –
- (a) In paragraph 4(a), for “The involvement of employees and, where appropriate, sub-contractors”, there shall be substituted “The involvement of persons working in the establishment”.
 - (b) For paragraph 4(e) there shall be substituted –
 - “(e) planning for emergencies – adoption and implementation of procedures to –
 - (i) identify foreseeable emergencies by systematic analysis;
 - (ii) prepare, test and review emergency plans to respond to such emergencies; and
 - (iii) provide specific training for all persons working in the establishment;”.
- (13) In paragraph 5 of Schedule 3 (Information to be included in a notification), after the word “present”, add the words “including, in relation to petroleum products listed in Part II of Schedule 1, the quantity falling within each of classes (a) to (c)”.
- (14) In Schedule 4 (Purpose and contents of safety reports) –
- (a) Paragraph 2(a) of Part II shall be amended as follows –
 - (i) for “meterological” there shall be substituted “meteorological”;

- (ii) for “geographical”, where it secondly occurs, there shall be substituted “geological”.
- (b) The following sub-paragraph shall be substituted for paragraph 4(b) of Part II –
 - “(b) assessment of the extent and severity of the consequences of identified major accidents including maps, images or, as appropriate, equivalent descriptions, showing areas which are liable to be affected by such accidents arising from the establishment;”.
- (c) The following paragraph shall be added to Part II –
 - “6. The names of the relevant organisations involved in the drawing up of the report.”.
- (15) In Schedule 8 (Provision of information by the competent authority) –
 - (a) After paragraph 1(b) there shall be inserted –
 - “(ba) notifications under regulation 8(2);”.
 - (b) After paragraph 13 there shall be inserted –
 - “(13A) Where information in a safety report is excluded from the register, the operator shall within 3 months after being notified of its exclusion, or such longer period as the competent authority may allow, send to the competent authority a safety report which omits that information.”.

Sealed with the Official Seal of the Department of Enterprise, Trade and Investment on 20th June 2005.

(L.S.)

M. Bohill

A senior officer of the Department of Enterprise, Trade and Investment

SCHEDULE

Regulation 2(11)

THE SCHEDULE TO BE SUBSTITUTED FOR SCHEDULE 1 TO THE CONTROL OF MAJOR ACCIDENT HAZARDS REGULATIONS (NORTHERN IRELAND) 2000

“SCHEDULE 1 Regulations 2(1) and (8) and 3(1)

DANGEROUS SUBSTANCES TO WHICH THE REGULATIONS APPLY

(This Schedule sets out the provisions of Annex 1 of the Directive, with modifications)

PART I

INTRODUCTION

1. This Schedule applies to the presence of dangerous substances at any establishment and determines the application of the relevant regulations in accordance with regulation 3(1).

2. Mixtures and preparations shall be treated in the same way as pure substances provided they remain within the concentration limits set according to their properties under the Chemicals (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2002(a), unless a percentage composition or other description is specifically given.

3. The qualifying quantities set out in Parts II and III relate to each establishment.

4. The quantities to be considered for the application of the relevant regulations are the maximum quantities which are present at any one time. Dangerous substances present at an establishment only in quantities equal to or less than 2 per cent of the relevant qualifying quantity shall be ignored for the purposes of calculating the total quantity present if their location within an establishment is such that it cannot act as an initiator of a major accident elsewhere on site.

5. The rules given in Part III, Note 4 governing the addition of dangerous substances, or categories of dangerous substances, shall apply.

6. For the purposes of this Schedule, a gas is any substance that has an absolute vapour pressure equal to or greater than 101.3 kPa at a temperature of 20°C.

7. For the purposes of this Schedule, a liquid is any substance that is not a gas and is not in the solid state at a temperature of 20°C and at a standard pressure of 101.3 kPa.

PART II

NAMED SUBSTANCES

Where a substance or group of substances listed in this Part also falls within a category of Part III, the qualifying quantities set out in this Part must be used.

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Dangerous substances</i>	<i>Quantity in tonnes</i>	
Ammonium nitrate (as described in Note 1 of this Part; see also Note 8(1) and (2))	5,000	10,000
Ammonium nitrate (as described in Note 2 of this Part; see also Note 8)	1,250	5,000
Ammonium nitrate (as described in Note 3 of this Part; see also Note 8(2) and (3))	350	2,500
Ammonium nitrate (as described in Note 4 of this Part; see also Note 8)	10	50
Potassium nitrate (as described in Note 5 of this Part)	5,000	10,000
Potassium nitrate (as described in Note 6 of this Part)	1,250	5,000
Arsenic pentoxide, arsenic (V) acid and/or salts	1	2
Arsenic trioxide, arsenious (III) acid and/or salts	0.1	0.1
Bromine	20	100

(a) S.R. 2002 No. 301 as amended by S.R. 2005 No. 165

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Dangerous substances</i>	<i>Quantity in tonnes</i>	
Chlorine	10	25
Nickel compounds in inhalable powder form (nickel monoxide, nickel dioxide, nickel sulphide, trinickel disulphide, dinickel trioxide)	1	1
Ethyleneimine	10	20
Fluorine	10	20
Formaldehyde (concentration $\geq 90\%$)	5	50
Hydrogen	5	50
Hydrogen chloride (liquefied gas)	25	250
Lead alkyls	5	50
Liquefied extremely flammable gases (including LPG) and natural gas (whether liquefied or not)	50	200
Acetylene	5	50
Ethylene oxide	5	50
Propylene oxide	5	50
Methanol	500	5,000
4, 4-Methylenebis (2-chloroaniline) and/or salts, in powder form	0.01	0.01
Methylisocyanate	0.15	0.15
Oxygen	200	2,000
Toluene diisocyanate	10	100
Carbonyl dichloride (phosgene)	0.3	0.75
Arsenic trihydride (arsine)	0.2	1
Phosphorus trihydride (phosphine)	0.2	1
Sulphur dichloride	1	1
Sulphur trioxide	15	75
Polychlorodibenzofurans and polychlorodibenzodioxins (including TCDD), calculated in TCDD equivalent	0.001	0.001
The following CARCINOGENS at concentrations above 5% by weight:	0.5	2
4-Aminobiphenyl and/or its salts, Benzotrichloride, Benzidine and/or salts, Bis (chloromethyl) ether, Chloromethyl methyl ether, 1,2-Dibromoethane, Diethyl sulphate, Dimethyl sulphate, Dimethylcarbonyl chloride, 1,2-Dibromo-3-chloropropane, 1,2-Dimethylhydrazine, Dimethylnitrosamine, Hexamethylphosphoric triamide, Hydrazine, 2-Naphthylamine and/or salts, 4-Nitrodiphenyl and 1,3-Propanesultone		
Petroleum products:	2,500	25,000
(a) gasolines and naphthas		
(b) kerosenes (including jet fuels)		
(c) gas oils (including diesel fuels, home heating oils and gas oil blending streams)		

NOTES

1. **Ammonium nitrate (5,000/10,000):** fertilisers capable of self-sustaining decomposition.

This applies to ammonium nitrate-based compound/composite fertilisers (compound or composite fertilisers containing ammonium nitrate with phosphate and/or potash) in which the nitrogen content as a result of ammonium nitrate is –

- (a) between 15.75% and 24.5% by weight and either with not more than 0.4% total combustible or organic materials or which satisfy the detonation resistance test described in Schedule 2 to the Ammonium Nitrate Materials (High Nitrogen Content) Safety Regulations 2003(a) “the detonation resistance test”; or
- (b) 15.75% or less by weight and unrestricted combustible materials,

and which are capable of self-sustaining decomposition according to the UN Trough Test specified in United Nations Recommendations on the Transport of Dangerous Goods: Manual of Tests and Criteria (3rd revised Edition), Part III, subsection 38.2.

2. Ammonium nitrate (1,250/5,000): fertiliser grade.

This applies to straight ammonium nitrate-based fertilisers and to ammonium nitrate-based compound/composite fertilisers in which the nitrogen content as a result of ammonium nitrate is –

- (a) more than 24.5% by weight, except for mixtures of ammonium nitrate with dolomite, limestone and/or calcium carbonate with a purity of at least 90%;
- (b) more than 15.75% by weight for mixtures of ammonium nitrate and ammonium sulphate; or
- (c) more than 28% by weight for mixtures of ammonium nitrate with dolomite, limestone and/or calcium carbonate with a purity of at least 90%,

and which satisfy the detonation resistance test.

3. Ammonium nitrate (350/2,500): technical grade.

This applies to –

- (a) ammonium nitrate and preparations of ammonium nitrate in which the nitrogen content as a result of the ammonium nitrate is –
 - (i) between 24.5% and 28% by weight, and which contain not more than 0.4% combustible substances; or
 - (ii) more than 28% by weight, and which contain not more than 0.2% combustible substances; and
- (b) aqueous ammonium nitrate solutions in which the concentration of ammonium nitrate is more than 80% by weight.

4. Ammonium nitrate (10/50): “off-specs” material and fertilisers not satisfying the detonation resistance test.

This applies to –

- (a) material rejected during the manufacturing process and to ammonium nitrate and preparations of ammonium nitrate, straight ammonium nitrate-based fertilisers and ammonium nitrate-based compound/composite fertilisers referred to in Notes 2 and 3, that are being or have been returned from the final user to a manufacturer, temporary storage or reprocessing plant for reworking, recycling or treatment for safe use, because they no longer comply with the specifications of Notes 2 and 3; or
- (b) fertilisers which do not fall within Notes 1(a) and 2 because they do not satisfy the detonation resistance test, other than fertilisers which –
 - (i) at the time of delivery to a final user satisfied the detonation resistance test; but
 - (ii) later became degraded or contaminated; and
 - (iii) are temporarily present at the establishment of the final user prior to their return for reworking, recycling or treatment for safe use or to their being applied as fertiliser.

5. Potassium nitrate (5,000/10,000): composite potassium nitrate-based fertilisers composed of potassium nitrate in prilled/granular form.

6. Potassium nitrate (1,250/5,000): composite potassium nitrate-based fertilisers composed of potassium nitrate in crystalline form.

7. Polychlorodibenzofurans and polychlorodibenzodioxins.

The quantities of polychlorodibenzofurans and polychlorodibenzodioxins are calculated using the following factors:

(a) S.I. 2003/1082

<i>International Toxic Equivalent Factors (ITEF) for the congeners of concern (NATO/CCMS)*</i>			
2, 3, 7, 8-TCDD	1	2, 3, 7, 8-TCDF	0.1
1, 2, 3, 7, 8-PeCDD	0.5	2, 3, 4, 7, 8-PeCDF	0.5
		1, 2, 3, 7, 8-PeCDF	0.05
1, 2, 3, 4, 7, 8-HxCDD } 1, 2, 3, 6, 7, 8-HxCDD } 1, 2, 3, 7, 8, 9-HxCDD }	0.1	1, 2, 3, 4, 7, 8-HxCDF } 1, 2, 3, 7, 8, 9-HxCDF } 1, 2, 3, 6, 7, 8-HxCDF } 2, 3, 4, 6, 7, 8-HxCDF }	0.1
1, 2, 3, 4, 6, 7, 8-HpCDD	0.01		
OCDD	0.001	1, 2, 3, 4, 6, 7, 8-HpCDF } 1, 2, 3, 4, 7, 8, 9-HpCDF }	0.01
		OCDF	0.001

* (T = tetra, Pe = penta, Hx = hexa, Hp = hepta, O = octa)

8.—(1) 15.75% nitrogen content by weight as a result of ammonium nitrate corresponds to 45% ammonium nitrate.

(2) 24.5% nitrogen content by weight as a result of ammonium nitrate corresponds to 70% ammonium nitrate.

(3) 28% nitrogen content by weight as a result of ammonium nitrate corresponds to 80% ammonium nitrate.

PART III

CATEGORIES OF SUBSTANCES AND PREPARATIONS NOT SPECIFICALLY NAMED IN PART II

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Categories of dangerous substances</i>	<i>Quantity in tonnes</i>	
1. VERY TOXIC	5	20
2. TOXIC	50	200
3. OXIDISING	50	200
4. EXPLOSIVE (see Note 2) where the substance, preparation or article is an explosive within UN/ADR Division 1.4	50	200
5. EXPLOSIVE (see Note 2) where the substance, preparation or article is an explosive within UN/ADR Division 1.1, 1.2, 1.3, 1.5 or 1.6 or risk phrase R2 or R3	10	50
6. FLAMMABLE, where the substance or preparation falls within the definition given in Note 3(a)	5,000	50,000
7a. HIGHLY FLAMMABLE, where the substance or preparation falls within the definition given in Note 3(b)(i)	50	200
7b. HIGHLY FLAMMABLE liquids, where the substance or preparation falls within the definition given in Note 3(b)(ii)	5,000	50,000
8. EXTREMELY FLAMMABLE, where the substance or preparation falls within the definition given in Note 3(c)	10	50
9. DANGEROUS FOR THE ENVIRONMENT risk phrases:		
(a) R50: "Very toxic to aquatic organisms" (including R50/53)	100	200
(b) R51/53: "Toxic to aquatic organisms: may cause long term adverse effects in the aquatic environment"	200	500
10. ANY CLASSIFICATION not covered by those given above in combination with risk phrases –		
(a) R14: "Reacts violently with water" (including R14/15)	100	500
(b) R29: "in contact with water, liberates toxic gas"	50	200

NOTES

1. Substances and preparations shall be classified for the purposes of this Schedule according to regulation 4 of the Chemicals (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2002, whether or not the substance or preparation is required to be classified for the purposes of those Regulations.

In the case of substances and preparations with properties giving rise to more than one classification, for the purposes of these Regulations the lowest qualifying quantities shall apply. However, for the application of the rule in Note 4, the qualifying quantity used shall always be the one corresponding to the classification concerned.

2. An “explosive” means –

- (a) a substance or preparation which creates the risk of an explosion by shock, friction, fire or other sources of ignition (risk phrase R2);
- (b) a substance or preparation which creates extreme risks of explosion by shock, friction, fire or other sources of ignition (risk phrase R3); or
- (c) a substance, preparation or article covered by Class 1 of the European Agreement concerning the International Carriage of Dangerous Goods by Road (UN/ADR), concluded on 30 September 1957, as amended, as transposed by Council Directive 94/55/EC of 21 November 1994 on the approximation of the laws of the Member States with regard to the transport of dangerous goods by road(a).

Included in this definition are pyrotechnics, which for the purposes of these Regulations mean substances (or mixtures of substances) designated to produce heat, light, sound, gas or smoke or a combination of such effects through self-sustained exothermic chemical reactions.

Where a substance or preparation is classified by both UN/ADR and risk phrase R2 or R3, the UN/ADR classification shall take precedence over assignment of risk phrases.

Substances and articles of Class 1 are classified in Divisions 1.1 to 1.6 in accordance with the UN/ADR classification scheme. The Divisions concerned are –

- (a) Division 1.1: “Substances and articles which have a mass explosion hazard (a mass explosion is an explosion which affects almost the entire load virtually instantaneously).”
- (b) Division 1.2: “Substances and articles which have a projection hazard but not a mass explosion hazard.”
- (c) Division 1.3: “Substances and articles which have a fire hazard and either a minor blast hazard or a minor projection hazard or both, but not a mass explosion hazard –
 - (i) combustion of which gives rise to considerable radiant heat; or
 - (ii) which burn one after another, producing minor blast or projection effects or both.”
- (d) Division 1.4: “Substances and articles which present only a slight risk in the event of ignition or initiation during carriage. The effects are largely confined to the package and no projection of fragments of appreciable size or range is to be expected. An external fire shall not cause virtually instantaneous explosion of virtually the entire contents of the package.”
- (e) Division 1.5: “Very insensitive substances having a mass explosion hazard which are so insensitive that there is very little probability of initiation or of transition from burning to detonation under normal conditions of carriage. As a minimum requirement they shall not explode in the external fire test.”
- (f) Division 1.6: “Extremely insensitive articles which do not have a mass explosion hazard. The articles contain only extremely insensitive detonating substances and demonstrate a negligible probability of accidental initiation or propagation. The risk is limited to the explosion of a single article.”

Included in this definition are also explosive or pyrotechnic substances or preparations contained in articles. 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 these Regulations. If the quantity is not known, then, for the purposes of these Regulations, the whole article shall be treated as explosive.

3. “Flammable”, “highly flammable” and “extremely flammable” mean –

(a) flammable liquids –

substances and preparations having a flash point equal to or greater than 21°C and less than or equal to 55°C (risk phrase R10), supporting combustion;

(a) O.J. No. L319, 12.12.1994, p. 7. Directive as last amended by Commission Directive 2003/28/EC (O.J. No. L90, 8.4.2003, p. 45)

- (b) highly flammable liquids –
 - (i) substances and preparations which may become hot and finally catch fire in contact with air at ambient temperature without any input of energy (risk phrase R17),
substances and preparations which have a flash point lower than 55°C and which remain liquid under pressure, where particular processing conditions, such as high pressure or high temperature, may create major-accident hazards;
 - (ii) substances and preparations having a flash point lower than 21°C and which are not extremely flammable (risk phrase R11, second indent); and
- (c) extremely flammable gases and liquids –
 - (i) liquid substances and preparations which have a flash point lower than 0°C and the boiling point (or, in the case of a boiling range, the initial boiling point) of which at normal pressure is less than or equal to 35°C (risk phrase R12, first indent); and
 - (ii) gases which are flammable in contact with air at ambient temperature and pressure (risk phrase R12, second indent), which are in a gaseous or supercritical state; and
 - (iii) flammable and highly flammable liquid substances and preparations maintained at a temperature above their boiling point.

4. In the case of an establishment where no individual substance or preparation is present in a quantity above or equal to the relevant qualifying quantities, the following rules shall be applied to determine the application of these Regulations to the establishment.

If the sum –

$$q_1/Q_{U1} + q_2/Q_{U2} + q_3/Q_{U3} + q_4/Q_{U4} + q_5/Q_{U5} + \dots$$

is greater than or equal to 1, where –

- (a) q_x = the quantity of dangerous substance x (or category of dangerous substances) falling within Part II or III of this Schedule; and
- (b) Q_{Ux} = the relevant qualifying quantity for substance or category x from column 3 of Part II or III,

then these Regulations apply.

If the sum –

$$q_1/Q_{L1} + q_2/Q_{L2} + q_3/Q_{L3} + q_4/Q_{L4} + q_5/Q_{L5} + \dots$$

is greater than or equal to 1, where –

- (a) q_x = the quantity of dangerous substance x (or category of dangerous substances) falling within Part II or III of this Schedule; and
- (b) Q_{Lx} = the relevant qualifying quantity for substance or category x from column 2 of Part II or III,

then these Regulations, save regulations 7 to 14, apply.

These rules shall be used to assess the overall hazards associated with toxicity, flammability and ecotoxicity. They must therefore be applied three times –

- (a) for the addition of substances and preparations named in Part II and classified as toxic or very toxic, together with substances and preparations falling into category 1 or 2;
- (b) for the addition of substances and preparations named in Part II and classified as oxidising, explosive, flammable, highly flammable or extremely flammable, together with substances and preparations falling into category 3, 4, 5, 6, 7a, 7b or 8; and
- (c) for the addition of substances and preparations named in Part II and classified as dangerous for the environment (R50 (including R50/53) or R51/53), together with substances and preparations falling into category 9(a) or 9(b),

and the relevant provisions of these Regulations shall apply if any of the sums thereby obtained is greater than or equal to 1.”

EXPLANATORY NOTE

(This note is not part of the Regulations.)

1. These Regulations amend the Control of Major Accident Hazards Regulations (Northern Ireland) 2000 (S.R. 2000 No. 93) (“COMAH”), so as to give effect to Directive 2003/105/EC of the European Parliament and of the Council (O.J. No. L345, 31.12.2003, p. 97), amending Council Directive 96/82/EC (O.J. No. L10, 14.1.1997, p. 13) on the control of major-accident hazards involving dangerous substances (to which COMAH gives effect in Northern Ireland), and give belated effect to the latter Directive in one respect.

2. In addition to minor and drafting changes, these Regulations –
- (a) provide for the sending of notifications by electronic means (*regulation 2(2)(b)*);
 - (b) modify the exclusions relating to mines, quarries, boreholes and waste land-fill sites (*regulation 2(3)(a)*);
 - (c) introduce a time limit for the preparation of a major accident prevention policy and modify time limits for notification, the submission of a safety report and the preparation of the on-site emergency plan (*regulation 2(4) to (6) and (8)*);
 - (d) require the notification of certain modifications to the establishment (*regulation 2(5)*);
 - (e) require notification when a safety report is revised or when a review of a report does not lead to revision (*regulation 2(7)*);
 - (f) modify the requirement to consult persons working in the establishment on the preparation of the plan (*regulation 2(8)(b)*);
 - (g) require the Executive to consult the public when the off-site emergency plan is reviewed (*regulation 2(9)*);
 - (h) require that schools, hospitals and other such establishments are supplied with safety information (*regulation 2(10)*);
 - (i) amend the quantities and classification of dangerous substances to which COMAH apply (*regulation 2(11) and Schedule*);
 - (j) require specific training in planning for emergencies for all persons working in the establishment (*regulation 2(12)*);
 - (k) require that a notification in respect of the quantity and physical form of petroleum products includes information for each class of petroleum product (*regulation 2(13)*);
 - (l) require the use of maps, images or equivalent descriptions to support the assessment of the extent and severity of the consequences of identified major accidents, and require the safety report to include the names of organisations involved in drawing up the report (*regulation 2(14)*);
 - (m) provide for the competent authority to include, in the register of information which it maintains, any notification it receives following a review of the safety report which does not lead to its revision (*regulation 2(15)(a)*); and
 - (n) require the operator to provide an amended safety report for such register if information is excluded from the register (*regulation 2(15)(b)*).

3. In Great Britain the corresponding Regulations are the Control of Major Accident Hazards (Amendment) Regulations 2005 (S.I. 2005/1088). The Great Britain Health and Safety Executive has prepared a regulatory impact assessment in respect of these Regulations and a copy of that assessment together with a Northern Ireland Supplement prepared by the Health and Safety Executive for Northern Ireland is held at the offices of that Executive at 83 Ladas Drive, Belfast, BT6 9FR, from where a copy may be obtained on request.

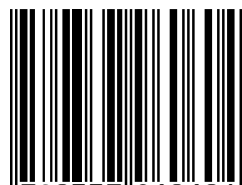
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