

1991 No. 141

HEALTH AND SAFETY

**Control of Industrial Major Accident Hazards
(Amendment) Regulations (Northern Ireland) 1991**

Made 4th April 1991

Coming into operation 13th May 1991

The Department of Agriculture, the Department of Economic Development, the Department of the Environment and the Department of Health and Social Services being Departments designated by the European Communities (Designation) Order 1983(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to measures relating to the prevention and limitation of the effects of accidents arising from industrial activities involving dangerous substances, acting jointly in exercise of the power conferred on them by the said section 2(2) and acting jointly as the Department concerned(c) in exercise of the powers conferred by Articles 17(1), (2) and 55(2) of, and paragraphs 1(1), (2), 14(1) and 19 of Schedule 3 to, the Health and Safety at Work (Northern Ireland) Order 1978(d) and of every other power enabling them in that behalf, after consultation in accordance with Article 46(1) of that Order with the Health and Safety Agency for Northern Ireland and such other bodies as appeared to them to be appropriate, hereby make the following Regulations:—

Citation and commencement

1. These Regulations may be cited as the Control of Industrial Major Accident Hazards (Amendment) Regulations (Northern Ireland) 1991 and shall come into operation on 13th May 1991.

Interpretation

2.—(1) In these Regulations “the principal Regulations” means the Control of Industrial Major Accident Hazards Regulations (Northern Ireland) 1985(e).

(2) The Interpretation Act (Northern Ireland) 1954(f) shall apply to these Regulations as it applies to a Measure of the Northern Ireland Assembly.

(a) S.I. 1983/603

(b) 1972 c. 68

(c) See Article 2(2) of S.I. 1978/1039 (N.I. 9)

(d) S.I. 1978/1039 (N.I. 9)

(e) S.R. 1985 No. 175, as amended by S.R. 1988 No. 388

(f) 1954 c. 33 (N.I.)

Amendments to the principal Regulations

3. The principal Regulations shall be amended as provided in regulations 4 to 13.

Interpretation

4. In regulation 2(1)—

(a) for sub-paragraph (b) of the definition of “dangerous substance” there shall be substituted—

“(b) any substance listed in Column 1 of Part I of Schedule 2 (which sets out the provisions of Annex II to the Directive) and any substance or preparation falling within any of the categories set out in Column 1 of Part II of that Schedule; and”;

(b) for the definition of “the Directive” there shall be substituted—

““the Directive” means Council Directive No. 82/501/EEC on the major-accident hazards of certain industrial activities(a), as amended by Council Directive 87/216/EEC(b) and Council Directive 88/610/EEC(c);”;

(c) after the definition of “the Directive” there shall be inserted—

““further relevant information”, for the purpose of Schedule 7A, means information necessary for the assessment of the potential effects of a major accident and which in the circumstance of the case—

(a) is reasonably required by the enquirer to assess the risks to his health and safety created by such an accident and to know and understand what action he should take in the event of an accident; and

(b) where the information is to be disclosed by the manufacturer, it is reasonable for him to disclose it having regard to the requirements of law and his commercial interests;”;

(d) for the definition of “industrial activity” there shall be substituted—

““industrial activity” means—

(a) an operation carried out in an industrial installation referred to in Schedule 4 (which sets out the provisions of Annex I to the Directive) involving, or which is liable to involve, one or more dangerous substances which—

(i) satisfy any of the criteria laid down in Schedule 1,

(ii) are listed in Column 1 of Schedule 3, or

(iii) both satisfy any of the said criteria and are so listed,

and includes on-site storage and on-site transport which is associated with that operation, unless the operation is incapable of producing a major accident hazard;

(a) O.J. No. L230, 5.8.82, p. 1

(b) O.J. No. L85, 28.3.87, p. 36

(c) O.J. No. L336, 7.12.88, p. 14

- (b) any storage to which Schedule 2 applies;’;
- (e) the definition of “isolated storage” shall be deleted;
- (f) after the definition of “manufacturer” there shall be inserted—
 - ‘ “preparation” means a mixture or solution of two or more substances; and’.

Revocation of regulation 3(2) of the principal Regulations

5. Regulation 3(2) is revoked.

Demonstration of safe operation

6. For regulation 4(1) there shall be substituted—

“4.—(1) This regulation shall apply to—

- (a) an industrial activity to which sub-paragraph (a) of the definition of industrial activity in regulation 2(1) applies and in which a substance which satisfies any of the criteria laid down in Schedule 1 is involved, or is liable to be involved; and
- (b) an industrial activity to which sub-paragraph (b) of that definition applies and in which there is involved, or is liable to be involved—
 - (i) for a substance specified in Column 1 of Part I of Schedule 2, a quantity of that substance which is equal to or more than the quantity for that substance specified opposite thereto in Column 2;
 - (ii) for substances and preparations falling within a category or categories specified in an entry in Column 1 of Part II of Schedule 2, a total quantity of such substances and preparations in the category or categories in that entry which is equal to or more than the quantity for that entry specified opposite thereto in Column 2.”.

Industrial activities to which regulations 7 to 12 of the principal Regulations apply

7. In regulation 6—

- (a) For paragraph (1) there shall be substituted—

“6.—(1) Regulations 7 to 12 shall apply to—

- (a) an industrial activity to which sub-paragraph (a) of the definition of industrial activity in regulation 2(1) applies and in which there is involved, or is liable to be involved, a substance listed in Column 1 of Schedule 3 in a quantity which is equal to or more than the quantity for that substance specified opposite thereto in Column 2; and
- (b) an industrial activity to which sub-paragraph (b) of that definition applies and in which there is involved, or is liable to be involved—
 - (i) for a substance specified in Column 1 of Part I of Schedule 2, a quantity of that substance which is equal to or more than the quantity for that substance specified opposite thereto in column 3;

- (ii) for substances and preparations falling within a category or categories specified in an entry in Column 1 of Part II of Schedule 2, a total quantity of such substances and preparations in the category or categories in that entry which is equal to or more than the quantity for that entry specified opposite thereto in Column 3.”; and

(b) in paragraph (2), for “12” there shall be substituted “11”.

Information to the public

8. For regulation 12 there shall be substituted—

“Information to the public

12.—(1) It shall be the duty of a manufacturer who has control of an industrial activity to which this regulation applies to—

- (a) ensure that persons outside the site who are likely to be in an area in which, in the opinion of the Department, they are liable to be affected by a major accident occurring at the site are supplied, in an appropriate manner, without their having to request it, with at least the information specified in Schedule 7A (which sets out the provisions of Annex VII to the Directive); and

(b) make that information publicly available.

(2) In preparing the information required to be supplied in accordance with paragraph (1), the manufacturer shall consult such persons who seem to him to be appropriate, but the manufacturer shall remain responsible for the accuracy, completeness and form of the information so supplied.

(3) The manufacturer shall ensure that the information supplied in accordance with paragraph (1) is updated and supplied again in accordance with that paragraph at appropriate intervals and made publicly available.

(4) The manufacturer shall take the steps necessary to comply with paragraphs (1) and (2) before the industrial activity is commenced, except that, in the case of an industrial activity commenced before 4th April 1992, it shall be a sufficient compliance with those paragraphs if the manufacturer takes the necessary steps by that date.”.

Indicative criteria

9. In Schedule 1, after paragraph (d), there shall be inserted—

“(e) Oxidizing substances:

substances which give rise to highly exothermic reaction when in contact with other substances, particularly flammable substances.”.

Storage of certain substances

10. For Schedule 2 there shall be substituted the Schedule set out in Schedule 1 to these Regulations.

Substances to which regulations 7 to 12 of the principal Regulations apply

11. In Schedule 3—

- (a) In Group 3, after the entry for “Acetylene (Ethyne)” there shall be inserted—
- (i) in Column 1 the entry “Ammonium nitrate(a)” and opposite thereto in Columns 2 and 3 insert “2,500 tonnes” and “6484-52-2” respectively; and
 - (ii) in Column 1 the entry “Ammonium nitrate in the form of fertilizers(b)” and opposite thereto in Column 2 insert “5,000 tonnes”;
- (b) In Column 1 Group 3, after the entry for “Propylene oxide” there shall be inserted the entry “Sodium chlorate” and opposite thereto in Columns 2, 3 and 4 insert “250 tonnes”, “7775-09-9” and “017-005-00-9” respectively;
- (c) Before the Note below the table there shall be inserted—
- “(a) This applies to ammonium nitrate and mixtures of ammonium nitrate where the nitrogen content derived from the ammonium nitrate is >28% by weight and to aqueous solutions of ammonium nitrate where the concentration of ammonium nitrate is >90% by weight.
 - (b) This applies to straight ammonium nitrate fertilizers which comply with Council Directive 80/876/EEC ‘on the approximation of the laws of the Member States relating to straight ammonium nitrate fertilizers of high nitrogen content’ and to compound fertilizers where the nitrogen content derived from the ammonium nitrate is >28% by weight (a compound fertilizer contains ammonium nitrate together with phosphate and/or potash).”.

Information to be included in a report under regulation 7(1) of the principal Regulations

12. In Schedule 6, after paragraph 5 there shall be inserted—

“6. In the case of the storage of substances and preparations to which Part II of Schedule 2 applies, paragraphs 2(a), (b) and (d) and 5(b) shall apply so far as is appropriate.”.

Information to be communicated to the public

13. After Schedule 7 there shall be inserted as Schedule 7A the Schedule set out as Schedule 2 to these Regulations.

Application of the principal Regulations

14. Where an industrial activity becomes subject to regulations 7 to 11 of the principal Regulations in consequence of an amendment made by these Regulations, then, in relation to that activity, the principal Regulations shall have effect subject to the modifications specified in Schedule 3.

Sealed with the Official Seal of the Department of Agriculture for Northern Ireland on 4th April 1991.

(L.S.)

I. C. Henderson

Assistant Secretary

Sealed with the Official Seal of the Department of Economic Development on 4th April 1991.

(L.S.)

Suzanna Cooper

Assistant Secretary

Sealed with the Official Seal of the Department of the Environment for Northern Ireland on 3rd April 1991.

(L.S.)

Trevor Pearson

Assistant Secretary

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 3rd April 1991.

(L.S.)

J. Scott

Assistant Secretary

SCHEDULE 1

Regulation 10

SCHEDULE TO BE SUBSTITUTED AS SCHEDULE 2 TO THE PRINCIPAL REGULATIONS

"SCHEDULE 2

Regulations 2(1),
4(1) and 6(1)

(WHICH SETS OUT THE PROVISIONS OF ANNEX II TO THE DIRECTIVE)

*Storage other than of Substances listed in Schedule 3 associated with an
Installation referred to in Schedule 4*

This Schedule applies to storage of dangerous substances and/or preparations at any place, installation, premises, building, or area of land, isolated or within an establishment, being a site used for the purpose of storage, except where that storage is associated with an installation covered by Schedule 4 and where the substances in question appear in Schedule 3.

The quantities set out in Parts I and II relate to each store or group of stores belonging to the same manufacturer where the distance between the stores is not sufficient to avoid, in foreseeable circumstances, any aggravation of major accident hazards. These quantities apply in any case to each group of stores belonging to the same manufacturer where the distance between the stores is less than 500 metres.

The quantities to be considered are the maximum quantities which are, or are liable to be, in storage at any one time.

PART I

NAMED SUBSTANCES

Where a substance (or group of substances) listed in Part I also falls within a category of Part II the quantities set out in Part I shall be used

<i>Substances or groups of substances</i>	<i>Quantities (Tonnes)</i>	
	<i>For application of regulation 4</i>	<i>For application of regulations 7 to 12</i>
(Column 1)	(Column 2)	(Column 3)
Acetylene	5	50
Acrolein (2-propenal)	20	200
Acrylonitrile	20	200
Ammonia	50	500
Ammonium nitrate(a)	350	2,500
Ammonium nitrate in the form of fertilizers(b)	1,250	10,000
Bromine	50	500
Carbon disulphide	20	200
Chlorine	10	75
Diphenyl methane di-isocyanate (MDI)	20	200

Substances or groups of substances (Column 1)	Quantities (Tonnes)	
	For application of regulation 4 (Column 2)	For application of regulations 7 to 12 (Column 3)
Ethylene dibromide (1, 2 Dibromoethane)	5	50
Ethylene oxide	5	50
Formaldehyde (concentration $\geq 90\%$)	5	50
Hydrogen	5	50
Hydrogen chloride (liquefied gas)	25	250
Hydrogen cyanide	5	20
Hydrogen fluoride	5	50
Hydrogen sulphide	5	50
Methyl bromide (Bromomethane)	20	200
Methyl isocyanate	0.15 (150 kilograms)	0.15 (150 kilograms)
Oxygen	200	2,000
Phosgene (Carbonyl chloride)	0.75 (750 kilograms)	0.75 (750 kilograms)
Propylene oxide	5	50
Sodium chlorate	25	250
Sulphur dioxide	25	250
Sulphur trioxide	15	100
Tetraethyl lead or tetramethyl lead	5	50
Toluene di-isocyanate (TDI)	10	100

(a) This applies to ammonium nitrate and mixtures of ammonium nitrate where the nitrogen content derived from the ammonium nitrate is $>28\%$ by weight and to aqueous solutions of ammonium nitrate where the concentration of ammonium nitrate is $>90\%$ by weight.

(b) This applies to straight ammonium nitrate fertilizers which comply with Council Directive 80/876/EEC "on the approximation of laws of the Member States relating to straight ammonium nitrate fertilizers of high nitrogen content" (a) and to compound fertilizers where the nitrogen content derived from the ammonium nitrate is $>28\%$ by weight (a compound fertilizer contains ammonium nitrate together with phosphate and/or potash).

PART II

CATEGORIES OF SUBSTANCES AND PREPARATIONS NOT SPECIFICALLY NAMED IN PART I

The quantities of different substances and preparations of the same category are cumulative. Where there is more than one category specified in the same entry, the quantities of all substances and preparations of the specified categories in that entry shall be summed up.

<i>Categories of substances and preparations</i> (Column 1)	<i>Quantities (Tonnes)</i>	
	<i>For application of regulation 4</i> (Column 2)	<i>For application of regulations 7 to 12</i> (Column 3)
1. Substances and preparations that are classified as 'very toxic'	5	20
2. Substances and preparations that are classified as 'very toxic', 'toxic'(a), 'oxidizing', or 'explosive'	10	200
3. Gaseous substances and preparations including those in liquefied form, which are gaseous at normal pressure and which are classified as 'highly flammable'(b)	50	200
4. Substances and preparations (excluding gaseous substances and preparations covered under item 3) which are classified as 'highly flammable' or 'extremely flammable'(c)	5,000	50,000

Substances and preparations shall be assigned categories in accordance with the classification provided for by regulation 5 of the Classification, Packaging and Labelling of Dangerous Substances Regulations (Northern Ireland) 1985 (S.R. 1985 No. 81, amended by S.R. 1988 No. 288, S.R. 1989 No. 182, S.R. 1990 No. 120 and S.R. 1990 No. 303) whether or not the substance or preparation is required to be classified for the purposes of those Regulations, or, in the case of a pesticide approved under the Food and Environment Protection Act 1985 (c. 48), in accordance with the classification assigned to it by that approval.

- (a) Where the substances and preparations are in a state which gives them properties capable of producing a major accident hazard.
- (b) This includes flammable gases as defined in paragraph (c)(i) of Schedule 1.
- (c) This includes highly flammable liquids as defined in paragraph (c)(ii) of Schedule 1."

SCHEDULE TO BE INSERTED AS SCHEDULE 7A TO THE PRINCIPAL REGULATIONS

"SCHEDULE 7A

Regulations 2(1)
and 12(1)

(WHICH SETS OUT THE PROVISIONS OF ANNEX VII TO THE DIRECTIVE)

*Items of information to be communicated to the public in the application of
Regulation 12*

- (a) Name of manufacturer and address of site.
- (b) Identification, by position held, of person giving the information.
- (c) Confirmation that the site is subject to these Regulations and that the report referred to in regulation 7(1) or at least the information required by regulation 7(3) has been submitted to the Department.
- (d) An explanation in simple terms of the activity undertaken on the site.
- (e) The common names, or in the case of storage covered by Part II of Schedule 2 the generic names or the general danger classification, of the substances and preparations involved on site which could give rise to a major accident, with an indication of their principal dangerous characteristics.
- (f) General information relating to the nature of the major accident hazards, including their potential effects on the population and the environment.
- (g) Adequate information on how the population concerned will be warned and kept informed in the event of an accident.
- (h) Adequate information on the actions the population concerned should take and on the behaviour they should adopt in the event of an accident.
- (i) Confirmation that the manufacturer is required to make adequate arrangements on site, including liaison with the emergency services, to deal with accidents and to minimise their effects.
- (j) A reference to the off-site emergency plan drawn up to cope with any off-site effects from an accident. This shall include advice to co-operate with any instructions or requests from the emergency services at the time of an accident.
- (k) Details of where further relevant information can be obtained, subject to the requirements of confidentiality laid down in national legislation."

SCHEDULE 3

Regulation 14

Modifications to the principal Regulations in their Application to Additional Industrial Activities

1. In regulations 6(2), 7(2) and 10(3) references to the coming into operation of the principal Regulations shall be construed as references to the coming into operation of these Regulations.

2. In regulation 7(2) the words "or within such longer time as the Department may agree in writing" shall not apply.

3. In each regulation or Schedule specified in Column 1 of the following Table, the date specified opposite thereto in Column 3 shall apply in substitution for the date referred to in that regulation or Schedule and specified in the corresponding entry in Column 2.

TABLE

Column 1 <i>Regulation or Schedule</i>	Column 2 <i>Existing date</i>	Column 3 <i>Modified date</i>
Regulation 7(3)	8th July 1989	1st June 1994
Regulation 7(3)	1st January 1986	13th August 1991
Regulation 10(3)(b)	1st January 1986	13th August 1991
Regulation 11(3)	1st July 1986	13th February 1992
Schedule 7, paragraph 4	30th September 1985	12th May 1991

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations amend the Control of Industrial Major Accident Hazards Regulations (Northern Ireland) 1985 ("the principal Regulations") for the purpose of implementing in full in respect of Northern Ireland Council Directive No. 88/610/EEC (O.J. No. L336, 7.12.88, p. 14) ("the Directive") amending Council Directive No. 82/501/EEC (O.J. No. L230, 5.8.82, p. 1) on the major accident hazards of certain industrial activities which was implemented by the principal Regulations.

Regulation 4 of these Regulations modifies the definitions in regulation 2(1) of the principal Regulations of "dangerous substance", "the Directive" and "industrial activity" to take into account the changed structure and broadened scope of Schedule 2. Regulation 4 of these Regulations also introduces definitions of "further relevant information" and "preparation" which are necessary to give effect to the requirements of the Directive.

Regulations 4 (demonstration of safe operation) and 6 (industrial activities to which regulations 7 to 12 apply) of the principal Regulations are modified by regulations 6 and 7(a) of these Regulations respectively to take into account the changes to Schedule 2.

Regulation 8 of these Regulations replaces regulation 12 (information to the public) of the principal Regulations which now requires more information about an industrial activity to be given to the public in accordance with Article 1.1 of, and Annex VII to, the Directive.

Regulation 9 of these Regulations amends Schedule 1 to the principal Regulations (indicative criteria) by adding the criterion for "oxidizing substances".

Regulation 10 of, and Schedule 1 to, these Regulations replace Schedule 2 to the principal Regulations. The Schedule now applies to any storage that is either isolated storage or, with certain exceptions, to storage associated with an industrial installation (within the meaning of Schedule 4 to the principal Regulations). Part I of the Schedule contains an expanded list of named substances with threshold quantities for the application of provisions of the principal Regulations, and Part II introduces a list of categories of substances and preparations grouped into 4 entries with threshold quantities similarly specified.

Regulation 11 of these Regulations adds for the first time the substances Ammonium nitrate, Ammonium nitrate in the form of fertilizers and Sodium chlorate to Schedule 3 of the principal Regulations (list of substances in respect of which regulations 7 to 12 of those Regulations apply). In addition regulation 5 of these Regulations revokes regulation 3(2) of the principal Regulations which disapplied those Regulations to certain explosive substances.

Regulation 13 of, and Schedule 2 to, these Regulations introduce, as Schedule 7A to the principal Regulations, a new Schedule specifying the information about a site which must be supplied to the public under regulation 12 of the principal Regulations.

Regulations 7 and 12 of these Regulations make minor and consequential amendments to the principal Regulations. Regulation 14 of, and Schedule 3 to, these Regulations introduce new compliance dates and transitional provisions for industrial activities which become subject to certain provisions of the principal Regulations as a consequence of the amendments made by these Regulations.