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STATUTORY INSTRUMENTS

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**2005 No. 1088**

**HEALTH AND SAFETY**

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

<i>Made</i>	- - - -	<i>4th April 2005</i>
<i>Laid before Parliament</i>		<i>7th April 2005</i>
<i>Coming into force</i>	- -	<i>30th June 2005</i>

The Secretary of State, being the designated(1) Minister for the purposes of section 2(2) of the European Communities Act 1972(2) in relation to measures relating to the prevention and limitation of the effects of accidents involving dangerous substances, in exercise of the powers conferred upon him by the said section 2(2) and by sections 15(1) and (2) and 82(3)(a) of, and paragraphs 1(1) and (2), 15(1) and 16 of Schedule 3 to, the Health and Safety at Work etc. Act 1974(3) (“the Act”) and for the purpose of giving effect without modifications to proposals submitted to him by the Health and Safety Commission under section 11(2)(d) of the Act after the carrying out by the Commission of consultations in accordance with section 50(2) of the Act, hereby makes the following Regulations—

**Citation and Commencement**

1. These Regulations may be cited as the Control of Major Accident Hazards (Amendment) Regulations 2005 and shall come into force on 30th June 2005.

**Amendment of the Control of Major Accident Hazards Regulations 1999**

2. The Control of Major Accident Hazards Regulations 1999(4) shall be amended in accordance with the following provisions of these Regulations.

3. In regulation 2(1)—

- (a) there shall be added to the definition of “the Directive” the words “as amended by Directive [2003/105/EC](#) of the European Parliament and of the Council of 16 December 2003(5)”;

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(1) S.I.1998/1750. Under section 57 of the Scotland Act 1998 c. 46, despite the transfer to Scottish Ministers of functions in relation to implementing obligations under Community law in relation to devolved matters, the function of the Secretary of State in relation to implementing those obligations continues to be exercised by him as regards Scotland.

(2) 1972 c. 68.

(3) 1974 c. 37. sections 15 and 50 were amended by the Employment Protection Act 1975 (c. 71) Schedule 15, paragraphs 6 and 16.

(4) S.I. 1999/743, to which there are amendments not relevant to these Regulations.

(5) OJ L345/97 31.12.2003.

- (b) for the definition of “notify” there shall be substituted—
  - ““notify” means notify—
  - (a) in writing, including in an email; or
  - (b) by such other means as the recipient may allow,and “notification” shall be construed accordingly;.”
- 4.—(1) In regulation 3(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.”.
- (2) Regulation 3(4) shall be revoked.
- 5. For paragraph (1) of regulation 5, 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”).”.
- 6.—(1) After paragraph (3) of regulation 6 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.”.
- (2) In regulation 6(4)(b)(iii), after “authority”, there shall be inserted “under this regulation”.
- (3) After regulation 6(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;”.
- 7. After paragraph (10) of regulation 7 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 1 of Schedule 4 and comprising at least the information specified in Part 2 of that Schedule.”.
- 8.—(1) For regulation 8(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 1 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;

- (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.”.
- (2) In regulation 8(2)—
  - (a) for “inform” there shall be substituted “notify”;
  - (b) for “(1)(a)” there shall be substituted “(1)(c)”.
- (3) In regulation 8(3), for “(1)(a)” there shall be substituted “(1)(c)”.
- (4) In regulation 8(4)(b), for “inform” there shall be substituted “notify”.
- 9. In regulation 9(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.”.
- 10. In regulation 9(3)(a), for “employed” there shall be substituted “working”.
- 11. In regulation 10(6), after “competent authority,” there shall be inserted “the Agency,”.
- 12. There shall be added to regulation 11(1) “and, in the case of a review of an off-site emergency plan, shall involve consultation by the local authority of such members of the public as it considers appropriate”.
- 13. For paragraph (1) of regulation 14 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.”.
- 14. For Schedule 1 there shall be substituted the schedule in the Schedule to these Regulations.
- 15.—(1) In paragraph 4(a) of Schedule 2, for “The involvement of employees and, where appropriate, sub-contractors”, there shall be substituted “The involvement of persons working in the establishment”.
- (2) For paragraph 4(e) of Schedule 2 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.”.
- 16. There shall be added to paragraph 5 of Schedule 3 “including, in relation to petroleum products listed in Part 2 of Schedule 1, the quantity falling within each of classes (a) to (c)”.

- 17.—(1) Paragraph 2(a) of Part 2 of Schedule 4 shall be amended—
- (a) by substituting for “meterological” the word “meteorological”;
  - (b) by substituting for “geographical”, where it secondly occurs, the word “geological”.
- (2) The following sub-paragraph shall be substituted for paragraph 4(b) of that Part—
- “(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;”.
- (3) The following paragraph shall be added to that Part—
- “6. The names of the relevant organisations involved in the drawing up of the report.”.
18. After paragraph 1(b) of Schedule 8 there shall be inserted—
- “(ba) notifications under regulation 8(2);”.
19. After paragraph 13 of Schedule 8 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.”.

Signed by authority of the Secretary of State

4th April 2005

*Chris Pond*  
Parliamentary Under-Secretary of State  
Department for Work and Pensions

SCHEDULE 1

Regulation 14

THE SCHEDULE TO BE SUBSTITUTED FOR SCHEDULE 1 TO THE  
CONTROL OF MAJOR ACCIDENT HAZARDS REGULATIONS 1999

“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 1

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 2002(6), unless a percentage composition or other description is specifically given.
3. The qualifying quantities set out in Parts 2 and 3 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 3, 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 2

NAMED SUBSTANCES

Where a substance or group of substances listed in this Part also falls within a category of Part 3, 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	5,000	10,000

(6) S.I. 2002/1689.

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<i>Column 1</i> <i>Dangerous substances</i>	<i>Column 2</i> <i>Quantity in tonnes</i>	<i>Column 3</i>
Part; see also Note 8(1) and (2))		
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
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

<i>Column 1</i> <i>Dangerous substances</i>	<i>Column 2</i> <i>Quantity in tonnes</i>	<i>Column 3</i>
Propylene oxide	5	50
Methanol	500	5,000
4, 4-Methylenebis (2-chloraniline) 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, Dimethylcarbamoyl 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		

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<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Dangerous substances</i>	<i>Quantity in tonnes</i>	
(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(7)“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 (3<sup>rd</sup> 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.

(7) S.I. 2003/1082.



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:

<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	0.1		
1, 2, 3, 6, 7, 8-HxCDD	0.1	1, 2, 3, 4, 7, 8-HxCDF	0.1
1, 2, 3, 7, 8, 9-HxCDD	0.1	1, 2, 3, 7, 8, 9-HxCDF	0.1
		1, 2, 3, 6, 7, 8-HxCDF	0.1
1, 2, 3, 4, 6, 7, 8-HpCDD	0.01	2, 3, 4, 6, 7, 8-HxCDF	0.1
		1, 2, 3, 4, 6, 7, 8-HpCDF	0.01

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

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<i>International Toxic Equivalent Factors (ITEF) for the congeners of concern (NATO/CCMS)*</i>			
OCDD	0.001	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 3

#### CATEGORIES OF SUBSTANCES AND PREPARATIONS NOT SPECIFICALLY NAMED IN PART 2

<i>Column 1</i> <i>Categories of dangerous substances</i>	<i>Column 2</i> <i>Quantity in tonnes</i>	<i>Column 3</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	50	200

<i>Column 1</i> <i>Categories of dangerous substances</i>	<i>Column 2</i> <i>Quantity in tonnes</i>	<i>Column 3</i>
preparation falls within the definition given in Note 3(b)(i)		
<b>7b. HIGHLY FLAMMABLE</b> liquids, where the substance or preparation falls within the definition given in Note 3(b)(i)	5,000	50,000
<b>8. EXTREMELY FLAMMABLE</b> , where the substance or preparation falls within the definition given in Note 3(c)	10	50
<b>9. DANGEROUS FOR THE ENVIRONMENT</b> 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
<b>10. ANY CLASSIFICATION</b> 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)

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Regulations 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<sup>(8)</sup>.

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

<sup>(8)</sup> OJ L 319, 12.12.1994, p.7. Directive as last amended by Commission Directive [2003/28/EC](#) (OJ L 90, 8.4.2003, p.45).

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;
- (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 2 or 3 of this Schedule; and
- (b)  $Q_{UX}$  = the relevant qualifying quantity for substance or category  $x$  from column 3 of Part 2 or 3,

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 2 or 3 of this Schedule; and
- (b)  $Q_{LX}$  = the relevant qualifying quantity for substance or category  $x$  from column 2 of Part 2 or 3,

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

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

- (a) for the addition of substances and preparations named in Part 2 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 2 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 2 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 1999/743 (“COMAH”), so as to give effect to Directive 2003/105/EC of the European Parliament and of the Council (OJ No L345, 31.12.2003, p.97), amending Council Directive 96/82/EC (OJ No L10, 14.1.1997, p.13) on the control of major-accident hazards involving dangerous substances (to which COMAH gives effect in Great Britain), and to 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 3(b)*);
- (b) modify the exclusions relating to mines, quarries, boreholes and waste land-fill sites (*regulation 4*);
- (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 (*regulations 5 to 7 and 9*);
- (d) require the notification of certain modifications to the establishment (*regulation 6*);
- (e) require notification when a safety report is revised or when a review of a report does not lead to revision (*regulation 8*);
- (f) modify the requirement to consult persons working in the establishment on the preparation of the plan (*regulation 10*);
- (g) include the Environment Agency and the Scottish Environment Protection Agency among the consultees on the preparation of the off-site emergency plan (*regulation 11*);
- (h) require the local authority to consult the public when the off-site emergency plan is reviewed (*regulation 12*);

- (i) require that schools, hospitals and other such establishments are supplied with safety information (*regulation 13*);
- (j) amend the quantities and classification of dangerous substances to which COMAH apply (*regulation 14 and Schedule 1*);
- (k) require specific training in planning for emergencies for all persons working in the establishment (*regulation 15*);
- (l) require that a notification in respect of the quantity and physical form of petroleum products includes information for each class of petroleum product (*regulation 16*);
- (m) 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 17*);
- (n) 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 18*); and
- (o) require the operator to provide an amended safety report for such register if information is excluded from the register (*regulation 19*).

**3.** A full regulatory impact assessment of the effect that this instrument will have on the costs of business is available from the Health and Safety Executive, Safety Economics Unit, Rose Court, 2 Southwark Bridge, London SE1 9HS. A Transposition Note in relation to implementation of Directive [2003/105/EC](#) can be obtained from the Health and Safety Executive, International Branch at the same address. Copies of both these documents have been placed in the Library of each House of Parliament.