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STATUTORY INSTRUMENTS

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**2015 No. 483**

**The Control of Major Accident Hazards Regulations 2015**

**PART 1**

**INTRODUCTION**

**Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Control of Major Accident Hazards Regulations 2015 and come into force on 1st June 2015.

(2) These Regulations extend to Great Britain.

**Interpretation**

2.—(1) In these Regulations—

“the 1974 Act” means the Health and Safety at Work etc. Act 1974;

“the 1999 Regulations” means the Control of Major Accident Hazards Regulations 1999<sup>(1)</sup>;

“the 2010 Regulations” means the Environmental Permitting (England and Wales) Regulations 2010<sup>(2)</sup>;

“the 2012 Regulations” means the Pollution Prevention and Control (Scotland) Regulations 2012<sup>(3)</sup>;

“the appropriate agency” in relation to an establishment in—

(a) England, means the Environment Agency;

(b) Scotland, means the Scottish Environment Protection Agency; and

(c) Wales, means the Natural Resources Body for Wales;

“authorised person” means a person authorised by the appropriate agency under section 108 of the Environment Act 1995<sup>(4)</sup>;

“CAS number” is the number assigned to a substance by the Chemical Abstracts Service<sup>(5)</sup>;

“the CLP Regulation” means Regulation (EC) No. 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures amending and repealing Directives 67/548/EEC and 1999/45/EC and amending Regulation (EC) No. 1907/2006, of which Annex I, Part 1.0 and 1.1, Parts 2 to 4 and, Annex VI, Part 3 Table 3.1 are to be read as amended from time to time;

“competent authority” has the meaning given in regulation 4;

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(1) S.I. 1999/743, amended by S.I. 2005/1088, 2008/1087, 2009/1595, 2013/766, 2014/162.

(2) S.I. 2010/675, to which there are amendments not relevant to these Regulations.

(3) S.S.I. 2012/360, amended by S.I. 2014/469.

(4) 1995 c.25; relevant amending instruments to section 108 are S.I. 2013/755 (W.90) and, section 46(2)(a)(i), (2)(a)(ii), (2)(b), (2)(c)(i), (2)(c)(ii), (2)(c)(iii), (2)(c)(iv) of the Regulatory Reform (Scotland) Act 2014 (asp 3).

(5) Chemical Abstracts Service ([www.cas.org](http://www.cas.org)), is a division of the American Chemical Society.

“dangerous substance” means (subject to regulation 3(2)(b) and (c)) a substance or mixture—

- (a) listed in column 1 of Part 2 of Schedule 1; or
- (b) in a category listed in column 1 of Part 1 of Schedule 1, including in the form of a raw material, product, by-product, residue or intermediate;

“designated authorities” means—

- (a) in England and Wales, those persons or bodies specified in Part 1 of Schedule 1 to the Civil Contingencies Act 2004(6);
- (b) in Scotland, those persons or bodies specified in Part 2 of Schedule 1 to that Act(7);

“the Directive” means Directive 2012/18/EU of the European Parliament and of the Council of 4 July 2012 on the control of major accident hazards involving dangerous substances, amending and subsequently repealing Council Directive 96/98/EC(8);

“domino effects” is to be construed in accordance with regulation 24(2);

“domino groups” is to be construed in accordance with regulation 24(1) and a reference to “domino group” is to be read accordingly;

“emergency services” means—

- (a) those police, fire and rescue, and ambulance services who are liable to be required to respond to an emergency at an establishment; and
- (b) where appropriate, Her Majesty’s Coastguard;

“establishment” means the whole location under the control of an operator where a dangerous substance is present in one or more installations, including common or related infrastructures or activities, in a quantity equal to or in excess of the quantity listed in the entry for that substance in column 2 of Part 1 or in column 2 of Part 2 of Schedule 1, where applicable using the rule laid down in note 4 in Part 3 of that Schedule;

“the Executive” means the Health and Safety Executive;

“existing establishment” has the meaning given in paragraph (2);

“external emergency plan” is to be construed in accordance with regulation 13(1);

“full address” means the full postal address (including postcode) and an address for contact by electronic means;

“hazard” means the intrinsic property of a dangerous substance or physical situation, with a potential for creating damage to human health or the environment;

“health authority” means—

- (a) in relation to England, a clinical commissioning group established under section 14D of the National Health Service Act 2006(9);
- (b) in relation to Wales, a Local Health Board established under section 11 of the National Health Service (Wales) Act 2006(10); and
- (c) in relation to Scotland, a Health Board established under section 2 of the National Health Service (Scotland) Act 1978(11);

(6) 2004 c.36; Schedule 1, Part 1 was amended by the National Health Service (Consequential Provisions) Act 2006 (c. 43) Schedule 1, paragraph 271(a) to (d); the Health and Social Care Act 2012 (c.7) Schedule 5, paragraph 132(2)(a) and (b), and Schedule 7, paragraph 16; and by S.I. 2008/3012, 2011/1223, and 2013/755 (W.90).

(7) 2004 c.36; Schedule 1, Part 2 was amended by S.S.I. 2013/119.

(8) O.J. No. L 197, 24.7.2012, p. 1.

(9) 2006 c.41; section 14D was inserted by the Health and Social Care Act 2012 (c.7), section 25.

(10) 2006 c.42.

(11) 1978 c.29; section 2 was amended by the Health and Social Services and Social Security Adjudications Act 1983 (c.41), Schedule 7, paragraph 1, the National Health Service and Community Care Act 1990 (c.19), section 28, Schedule 9, paragraph 19(1), and Schedule 10, the National Health Service Reform (Scotland) Act 2004 (asp 7), Schedule 1, paragraph 1(2)(a) and

“inspection” means all actions, including—

- (a) site visits;
- (b) checks of internal measures, systems and reports and follow up documents; and
- (c) any necessary follow up,

undertaken by or on behalf of the competent authority to check and promote compliance of establishments with the requirements of these Regulations;

“inspector” means a person appointed under section 19 of the 1974 Act by or on behalf of—

- (a) the Executive; or
- (b) the ONR;

“installation” means a technical unit within an establishment, whether at or below ground level, in which dangerous substances are produced, used, handled or stored and includes all the equipment, structures, pipelines, pipework, machinery, tools, private railway sidings, docks, unloading quays serving the installation, jetties, warehouses or similar structures, floating or otherwise, necessary for the operation of that installation;

“internal emergency plan” is to be construed in accordance with regulation 12(1);

“local authority” means—

- (a) for the purposes of regulation 18 and regulation 26, in relation to—
  - (i) the City of London, the Common Council of the City of London;
  - (ii) an area in the rest of London, the London borough council for that area;
  - (iii) the Isles of Scilly, the Council of the Isles of Scilly;
  - (iv) an area in the rest of England, the district council for that area or where there is no district council for that area, the county council for that area;
  - (v) an area in Scotland, the council for the local government area;
  - (vi) an area in Wales, the county council or the county borough council for that area;
- (b) otherwise, in relation to—
  - (i) London, the London Fire and Emergency Planning Authority;
  - (ii) an area where there is a fire and civil defence authority, that authority;
  - (iii) the Isles of Scilly, the Council of the Isles of Scilly;
  - (iv) an area in the rest of England, the county council for that area, or where there is no county council for that area, the district council for that area;
  - (v) an area in Scotland, the Scottish Fire and Rescue Service established under section 1A of the Fire (Scotland) Act 2005<sup>(12)</sup>;
  - (vi) an area in Wales, the county council or the county borough council;

“lower tier establishment” means an establishment where a dangerous substance is present in a quantity equal to or in excess of the quantity listed in the entry for that substance in column 2 of Part 1 or in column 2 of Part 2 of Schedule 1, but less than that listed in the entry for that substance in column 3 of Part 1 or in column 3 of Part 2 of Schedule 1, where applicable using the rule laid down in note 4 of Part 3 of that Schedule;

“major accident” means an occurrence such as a major emission, fire, or explosion resulting from uncontrolled developments in the course of the operation of any establishment to which these Regulations apply, and leading to serious danger to human health or the environment

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(b), the Smoking, Health and Social Care (Scotland) Act 2005 (asp 13), Schedule 2, paragraph 2(2), and the Health Boards (Membership and Elections) (Scotland) Act 2009 (asp 5), section 2(1), and S.S.I. 2009/242.

(12) 2005 (asp 5); section 1A was inserted by the Police and Fire Reform (Scotland) Act 2012 (asp 8), section 101(1).

(whether immediate or delayed) inside or outside the establishment, and involving one or more dangerous substances;

“major accident prevention policy” is to be construed in accordance with regulation 7;

“mixture” means a mixture or solution composed of two or more substances;

“neighbouring establishment” means an establishment that is located in such proximity to another establishment so as to increase the risk or consequences of a major accident;

“new establishment” means—

- (a) an establishment that is constructed or enters into operation on or after 1st June 2015;
- (b) a site of operation which becomes an establishment to which these Regulations apply on or after 1st June 2015 due to an increase or other change in its inventory of dangerous substances;
- (c) a lower tier establishment that becomes an upper tier establishment, or vice versa, on or after that date due to any modification to any of its installations or activities which results in a change in its inventory of dangerous substances;

“nuclear establishment” means an establishment which is or is wholly or partly within—

- (a) a GB nuclear site (within the meaning given in section 68 of the Energy Act 2013<sup>(13)</sup>); or
- (b) a new nuclear build site (within the meaning given in regulation 2A of the Health and Safety (Enforcing Authority) Regulations 1998<sup>(14)</sup>);

“the ONR” means the Office for Nuclear Regulation;

“operator” means the person who is in control of the operation of an establishment, or in relation to an establishment which is to be constructed or operated the person who proposes to control its operation, or if that person is not known, the person who in the course of a trade, business or other undertaking carried on by that person has commissioned its design and construction;

“other establishment” means—

- (a) a site of operation that becomes an establishment to which these Regulations apply on or after 1st June 2015; or
- (b) a lower tier establishment that becomes an upper tier establishment, or vice versa, on or after that date,

for reasons other than those mentioned in paragraph (b) or (c) (as the case may be) of the definition of “new establishment”;

“pipelines” means pipelines to which the Pipelines Safety Regulations 1996<sup>(15)</sup> apply;

“the public” means one or more persons and, includes their associations, organisations or groups;

“presence of a dangerous substance” means the actual or anticipated presence of a dangerous substance in an establishment, or of a dangerous substance which it is reasonable to foresee may be generated during loss of control of the processes, including storage activities, in any installation within the establishment, in a quantity equal to or in excess of the qualifying quantity listed in the entry for that substance in column 2 of Part 1 or in column 2 of Part 2 of Schedule 1, and “where a dangerous substance is present” is to be construed accordingly;

“risk” means the likelihood of a specific effect occurring within a specified period or in specified circumstances;

<sup>(13)</sup> 2013 c.32.

<sup>(14)</sup> S.I. 1998/494, amended by S.I. 2014/469; there are other amending instruments but none is relevant.

<sup>(15)</sup> S.I. 1996/825, to which there are amendments not relevant to these Regulations.

“safety report” is to be construed in accordance with regulation 8;

“storage” means the presence of a quantity of dangerous substances for the purposes of warehousing, depositing in safe custody or keeping in stock;

“upper tier establishment” means an establishment where a dangerous substance is present in a quantity equal to or in excess of the quantity listed in the entry for that substance in column 3 of Part 1 or in column 3 of Part 2 of Schedule 1, where applicable using the rule laid down in note 4 of Part 3 of that Schedule.

- (2) For the purposes of these Regulations “existing establishment” means an establishment—
- (a) where on 31st May 2015 a dangerous substance or category of substance listed in column 1 of Parts 2 or 3 of Schedule 1 to the 1999 Regulations was present in a quantity equal to or in excess of the quantity listed in the entry for that substance in column 2 of those Parts, but less than that listed in the entry for that substance in column 3 of those Parts, where applicable using the rule laid down in note 4 of Part 3 of that Schedule, and which on 1st June 2015 was a lower tier establishment; or
  - (b) where on 31st May 2015 a dangerous substance or category of substance listed in column 1 of Parts 2 or 3 of Schedule 1 to the 1999 Regulations was present in a quantity equal to or in excess of the quantity listed in the entry for that substance in column 3 of those Parts, where applicable using the rule laid down in note 4 of Part 3 of that Schedule, and which on 1st June 2015 was an upper tier establishment,

other than one which has ceased to be an existing establishment.

- (3) For the purposes of paragraph (2) an establishment ceases to be an existing establishment—
- (a) within paragraph (a) of the definition of that term if, on or after 1st June 2015, the establishment becomes an upper tier establishment;
  - (b) within paragraph (b) of the definition of that term if, on or after 1st June 2015, the establishment becomes a lower tier establishment.

(4) Where a new establishment becomes subject to these Regulations due to an increase, decrease or other change in its inventory of dangerous substances, any reference in these Regulations to the start of operation of the establishment, is a reference to the time when the establishment first becomes subject to the Regulations by reason of that increase, decrease or change.

(5) The columns in Parts 1 and 2 of Schedule 1 are to be applied subject to the notes in Part 3 of that Schedule.

(6) Where a substance listed in column 1 of Part 2 of Schedule 1 is also covered by a category in column 1 of Part 1 of that Schedule, the quantities set out in columns 2 and 3 of Part 2 must be used.

(7) A reference in these Regulations to “writing” includes writing which is communicated or kept in electronic form and which can be printed.

### **Application and exceptions**

**3.—**(1) These Regulations apply to any establishment which is either a lower tier establishment or an upper tier establishment.

- (2) These Regulations do not apply to any of the following—
- (a) an establishment which is under the control of—
    - (i) the Secretary of State for the purposes of the Ministry of Defence;
    - (ii) a headquarters or organisation designated for the purposes of the International Headquarters and Defence Organisations Act 1964<sup>(16)</sup> or the service authorities of

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(16) 1964 c.5.

- a visiting force within the meaning of any of the provisions of Part 1 of the Visiting Forces Act 1952<sup>(17)</sup>;
- (b) hazards created by ionising radiation originating from substances;
  - (c) substances which create a hazard from ionising radiation if present on a nuclear establishment;
  - (d) the exploitation, namely the exploration, extraction and processing, of minerals in mines and quarries, including by means of boreholes, except any of the following which involve dangerous substances—
    - (i) onshore underground gas storage in natural strata, aquifers, salt cavities and disused mines;
    - (ii) chemical and thermal processing operations and storage related to those operations;
    - (iii) operational tailings disposal facilities, including tailing ponds or dams;
  - (e) the offshore exploration and exploitation of minerals, including hydrocarbons;
  - (f) the storage of gas at underground offshore sites including dedicated storage sites and sites where exploration and exploitation of minerals, including hydrocarbons, are also carried out;
  - (g) waste landfill sites, including underground waste storage, except—
    - (i) any of the following that involve dangerous substances—
      - (aa) chemical and thermal processing operations and storage related to those operations; or
      - (bb) operational tailings disposal facilities, including tailing ponds or dams;
    - (ii) sites used for the storage of metallic mercury pursuant to Article 3(1)(b) of Regulation (EC) No. 1102/2008 of the European Parliament and of the Council on the banning of exports of metallic mercury and certain compounds and mixtures and the safe storage of metallic mercury<sup>(18)</sup>.

#### **The competent authority**

4. For the purposes of these Regulations the competent authority is—
- (a) in relation to a nuclear establishment, the ONR and the appropriate agency acting jointly;
  - (b) otherwise, the Executive and the appropriate agency acting jointly.

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<sup>(17)</sup> 1952 c.67.

<sup>(18)</sup> O.J. No. L304, 14.11.2008, p.75.