

2015 No.XX

HEALTH AND SAFETY

The Control of Major Accident Hazards Regulations 2015

<i>Made</i> - - - -	<i>07.08.14</i>
<i>Laid before Parliament</i>	<i>version 2.0</i>
<i>Coming into force</i> - -	<i>1st June 2015</i>

The Secretary of State is a Minister designated for the purposes of section 2(2) of the European Communities Act 1972(a) (“the 1972 Act”) in relation to measures relating to the prevention and limitation of the effects of accidents involving dangerous substances(b).

The Secretary of State makes these Regulations in exercise of the powers conferred by section 15(1) and (2) of, and paragraph 1(1)(b) of Schedule 3 to, the Health and Safety at Work etc. Act 1974(c) (“the 1974 Act”), section 2(2) of the 1972 Act and section 101 of the Energy Act 2013(d) (“the 2013 Act”).

In doing so the Secretary of State gives effect without modifications to proposals submitted to him by the Health and Safety Executive under section 11(3) of the 1974 Act after consulting in accordance with section 50(3) of 1974 Act and section 101(6) of the 2013 Act.

These Regulations make provision for a purpose mentioned in section 2(2) of the 1972 Act and it appears to the Secretary of State that it is expedient for the references in these Regulations to Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008(e) on classification, labelling and packaging of substances and mixtures, to be construed as references to that instrument as amended from time to time.

(a) 1972 c.68; section 2(2) was amended by section 27 of the Legislative and Regulatory Reform Act 2006 (c.51) and section 3 of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 (c.7). The power of Ministers to make regulations in relation to matters in or regards Scotland is preserved by section 57(1) of the Scotland Act 1998 (c.46).

(b) S.I. 1998/1750.

(c) 1974 c.37; section 11(3) was inserted by S.I. 2008/960; section 15(1) was inserted by the Employment Protection Act 1975 (c.71), Schedule 15, paragraph 6, and also amended by S.I. 2002/794; section 50(3) was amended by the Employment Protection Act 1975 (c.71), Schedule 15, paragraph 16, the Health and Social Care Act 2012 (c.7), Schedule 7, paragraph 6, and also by S.I. 2008/960.

(d) 2013 c.32.

(e) O.J. No L353, 31.12.08, p.1.

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 do not extend to Northern Ireland.

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires—

“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(a);

“the 2004 Regulations” means the Environmental Information Regulations 2004(b);

“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;

“CAS number” is the number assigned to a substance by the Chemical Abstract Service;

“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, as amended from time to time(c);

“competent authority” has the meaning given in regulation 4 and shall be construed accordingly;

“dangerous substance” means (subject to regulation 3(2)(b)) 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 Schedule 1, Part 1 to the Civil Contingencies Act 2004(d);

(b) in Scotland, those persons or bodies specified in Schedule 1, Part 2 to the Civil Contingencies Act 2004;

“the Directive” means Directive 2012/18/EU of the European Parliament and of the Council on the control of major accident hazards involving dangerous substances(e);

“domino effects” and “domino group” are to be construed in accordance with Regulation 24(1);

“environmental information” has the meaning given by regulation 2(1) of the 2004 Regulations;

(a) S.I. 1999/743

(b) S.I. 2004/3391

(c) O.J. No L353, 31.12.08, p.1.

(d) 2004 c. 36; Schedule 1 was amended by S.I. 2005/2043 also by the National Health Service (Consequential Provisions) Act 2006 (c. 43), and by S.I. 2008/3012.

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

“establishment” means the whole location under the control of an operator where dangerous substances are present in one or more installations, including common or related infrastructures or activities, and an establishment may be either—

- (a) a lower tier establishment; or
- (b) an upper tier establishment;

“the Executive” means the Health and Safety Executive;

“existing establishment” means an establishment—

- (a) where on 31 May 2015 a dangerous substance listed in column 1 of Parts 2 or 3 of Schedule 1 to the 1999 Regulations is present in a quantity equal to or exceeding the quantity listed in the entry for that substance in column 2 of those Parts but which is less than the quantity in the entry for that substance in column 3 of those Parts, where applicable using the summation rule in note 4 to Part 3 of Schedule 1 to the 1999 Regulations, and on 1 June 2015 the establishment is a lower tier establishment; or
- (b) where on 31 May 2015 a dangerous substance listed in column 1 of Parts 2 or 3 of Schedule 1 to the 1999 Regulations is present in a quantity equal to or exceeding the quantity listed in the entry for that substance in column 3 of those Parts, where applicable using the summation rule in note 4 to Part 3 of Schedule 1 to the 1999 Regulations, and on 1 June 2015 the establishment is an upper tier establishment;

“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;
- (b) in relation to Wales, a Health Authority established under section 8 of that Act; and
- (c) in relation to Scotland, a Health Board established under section 2 of the National Health Service (Scotland) Act 1978.

“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 by—

- (a) the Executive under section 19 of the 1974 Act;
- (b) the ONR under section 19 of the 1974 Act;

“installation” means a technical unit within an establishment and whether at or below ground level, in which dangerous substances are produced, used, handled or stored; it includes all the equipment, structures, 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;

“local authority” means—

- (a) for the purposes of regulation 18 and regulation 27, 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; and

- (vi) an area in Wales, the county council or the county borough council for that area;
- (b) for the purposes of other regulations, in relation to—
 - (i) an area in England and Wales, a fire and rescue authority within the meaning of section 1 of the Fire and Rescue Services Act 2004;
 - (ii) an area in Scotland, the Scottish Fire and Rescue Service established under section 1A of the Fire (Scotland) Act 2005^(a);

“lower tier establishment” means an establishment where dangerous substances are present in quantities equal to or in excess of the quantities listed in column 2 of Part 1 or in column 2 of Part 2 of Schedule 1, but less than the quantities listed in column 3 of Part 1 or in column 3 of Part 2 of Schedule 1, where applicable using the summation rule laid down in note 4 to Schedule 1;

“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 covered by these Regulations, and leading to serious danger to human health or the environment, immediate or delayed, inside or outside the establishment, and involving one or more dangerous substances;

“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 enters into operation or is constructed on or after 1 June 2015; or
- (b) a site of operation that falls within the scope of these Regulations, or a lower tier establishment that becomes an upper tier establishment or vice versa, on or after 1 June 2015 due to modifications to its installations or activities resulting 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^(b)); or
- (b) a new nuclear build site (within the meaning given in regulation 2A of the Health and Safety (Enforcing Authority) Regulations 1998^(c));

“the ONR” means the Office for Nuclear Regulation;

“operator” means any 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;

“pipeline” means a pipeline to which the Pipelines Safety Regulations 1996 applies;

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

“other establishment” means an establishment to which these Regulations apply, or a lower tier establishment that becomes an upper tier establishment or vice versa, on or after 1 June 2015 for reasons other than those pursuant to which an establishment becomes a new establishment;

“presence of dangerous substances” means the actual or anticipated presence of dangerous substances in the establishment, or of dangerous substances 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 quantities equal to or exceeding the qualifying

^(a) 2005 asp 5; section 1A was added by the Police and Fire Reform (Scotland) Act 2012 asp 8.

^(b) 2013 c. 32.

^(c) S.I. 1998/494 as amended by the following 1999/2024; 1999/3232/; 2002/2675; 5005/1082; 2005/1541; 2005/2060; 2006/2739; 2007/320; 2007/2598; 2008/960; 2009/693; 2009/716.

quantities set out in Part 1 or Part 2 of Schedule 1, and “where dangerous substances are present” is to be construed accordingly;

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

“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 dangerous substances are present in quantities equal to or in excess of the quantities listed in column 3 of Part 1 or in column 3 of Part 2 of Schedule 1, where applicable using the summation rule laid down in note 4 to Schedule 1.

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

Application

3.—(1) These Regulations apply to an establishment as defined in regulation 2(1).

(2) Despite paragraph (1) 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(a) or the service authorities of a visiting force within the meaning of any of the provisions of Part 1 of the Visiting Forces Act 1952(b);
- (b) hazards created by ionising radiation originating from substances if present on a site for which a nuclear site licence has been granted or is required for the purposes of section 1 of the Nuclear Installations Act 1965(c);
- (c) the transport of dangerous substances and directly related intermediate temporary storage by road, rail, internal waterways, sea or air, outside the establishments covered by these Regulations, including loading and unloading and transport to and from another means of transport at docks, wharves or marshalling yards;
- (d) the transport of dangerous substances in pipelines, including pumping stations, outside establishments covered by these Regulations;
- (e) 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;
or
 - (iii) operational tailings disposal facilities, including tailing ponds or dams.
- (f) the offshore exploration and exploitation of minerals, including hydrocarbons;
- (g) the storage of gas at underground offshore sites including both dedicated storage sites and sites where exploration and exploitation of minerals, including hydrocarbons are also carried out; and
- (h) waste landfill sites, including underground waste storage, except—
 - (i) any of the following that involve dangerous substances—

(a) 1964 c. 5

(b) 1952 c. 67

(c) Section 1 was amended by S.I. 1974/2056 and S.I. 1990/1918.

- (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^(a).

The competent authority

4.—(1) 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.

(2) Where the competent authority considers it to be expedient (subject to paragraphs (3) and (4)), all or part of the information that an operator is required to include in—

- (a) a notification, under regulation 6;
- (b) a major accident prevention policy, under regulation 7;
- (c) a safety report, under regulation 9;
- (d) an internal emergency plan, under regulation 12;
- (e) action to be taken following a major accident, under regulation 27,

may be provided by the operator by reference to information contained in another document sent to the appropriate agency, pursuant to a requirement imposed in England and Wales, under the Environmental Permitting (England and Wales) Regulations 2010, and in Scotland under the Pollution Prevention and Control (Scotland) Regulations 2012.

(3) At the time of sending the information to the competent authority, the operator must in writing inform the competent authority that it is seeking to rely on paragraph (2) and the extent of that reliance by reference to the sub-paragraphs in that paragraph.

(4) The competent authority must assess whether information provided by the operator under paragraph (2), satisfies any requirement in the regulations referred to in the sub-paragraphs in that paragraph and inform the operator of its decision in writing.

(5) Anything required to be submitted or sent to the competent authority under these Regulations must be sent to the address published for this purpose on the website of the Executive, ONR or the appropriate agency which may be, or include, an address for submission by electronic means.

PART 2

GENERAL

General obligations of the operator

5.—(1) Every operator must take all measures necessary to prevent major accidents and to limit their consequences for human health and the environment.

(2) Every operator must demonstrate to the competent authority that it has taken all measures necessary as specified in these Regulations.

(3) Every operator must provide the competent authority with all assistance necessary to enable the competent authority to perform its functions under these Regulations.

(a) O.J. No. L304, 14.11.2008, p. 75.

(4) Without prejudice to the generality of paragraph (3), every operator must in particular provide assistance as necessary to the competent authority to—

- (a) enable the carrying out of inspections and investigations; and
- (b) gather any necessary information,

to enable the competent authority to perform its functions under these Regulations.

Notification

6.—(1) Within a reasonable period of time prior to the start of construction of an establishment the operator of the establishment must send to the competent authority a notification containing the following information—

- (a) the name of the operator and the full address of the establishment concerned;
- (b) the registered place of business of the operator, with the full address;
- (c) the name and position of the person in charge of the establishment;
- (d) sufficient information to identify the dangerous substances and category of substances involved or likely to be present;
- (e) the quantity and physical form of the dangerous substance or substances concerned;
- (f) the activity or proposed activity of the installation or storage facility;
- (g) description of the immediate environment of the establishment, and factors likely to cause a major accident or to aggravate the consequences including, where available, details of—
 - (i) neighbouring establishments;
 - (ii) sites that fall outside the scope of these Regulations;
 - (iii) areas and developments that could be the source of or increase the risk or consequences of a major accident and of domino effects.

(2) Within a reasonable period of time prior to the start of the operation of an establishment the operator of the establishment must send to the competent authority a notification containing the information specified in paragraph (1), except that this paragraph does not require the notification to contain information already contained in a notification sent pursuant to paragraph (1), if that information is still valid.

(3) In the case of an existing establishment the operator of the establishment must send to the competent authority a notification containing the information specified in paragraph (1) by 1 June 2016.

(4) In the case of an other establishment the operator of the establishment must send to the competent authority a notification containing the information specified in paragraph (1) within one year from the date when this regulation applies to the establishment concerned.

(5) The operator must notify the competent authority in advance in the event of—

- (a) there being any significant increase or decrease in the quantity of dangerous substances notified under this regulation;
- (b) there being any significant change in—
 - (i) the nature or physical form of the dangerous substances notified under this regulation; or
 - (ii) the processes employing them;
- (c) modification of the establishment or an installation which could have significant consequences in terms of major accident hazards;
- (d) permanent closure of the establishment or its decommissioning; and
- (e) any change in the information referred to in paragraph (1)(a) to (c).

(6) The competent authority must specify in writing in advance the means by which operators must send the notifications referred to in this regulation.

Major accident prevention policy

7.—(1) Every operator must prepare and retain in writing a major accident prevention policy document.

(2) The major accident prevention policy document must be designed to ensure a high level of protection of human health and the environment, and be proportionate to the major accident hazards and must include the operator's overall aims and principles of action, the role and responsibility of management, as well as its commitment towards continuously improving the control of major accident hazards.

(3) Every operator must implement by a safety management system the policy set out in its major accident prevention policy document.

(4) A safety management system must—

- (a) take into account the matters specified in paragraph 1 of Schedule 2; and
- (b) include sufficient particulars to demonstrate that it takes account of the matters specified in paragraph 2 of that Schedule.

(5) The major accident prevention policy document must be prepared in accordance with the following requirements—

(a) for new establishments—

- (i) a reasonable period of time prior to construction or operation of the establishment concerned;
- (ii) a reasonable period of time period prior to modifications leading to a change in the inventory of dangerous substances,

(b) for existing establishments by 1 June 2016;

(c) for other establishments one year from the date when this regulation applies to the establishment concerned.

(6) Paragraph 5(b) does not apply where the operator has previously prepared and retains a major accident prevention policy document prepared in accordance with regulation 5 of the 1999 Regulations, where the information contained within that document remains materially unchanged, and complies with the requirements contained within this regulation and Schedule 2.

(7) Every operator must review its major accident prevention policy document—

- (a) in the event of there being any significant increase or decrease in the quantity of dangerous substances notified under regulation 6;
- (b) in the event of there being any significant change in the nature or physical form of the dangerous substances notified under regulation 6, or the process employing them which could have significant consequences in terms of major accident hazards; and
- (c) in any event no later than five years since the previous major accident policy document was reviewed,

and where necessary it must revise and retain the updated document.

PART 3

SAFETY REPORTS

Purposes of safety report

8. Every operator of an upper tier establishment must prepare a safety report for the following purposes—

- (a) demonstrating that a major accident prevention policy and a safety management system for implementing it have been put into effect in accordance with the information set out in Schedule 3;

- (b) demonstrating that major accident hazards and possible major accident scenarios have been identified and that the necessary measures have been taken to prevent such accidents and to limit their consequences for human health and the environment;
- (c) demonstrating that adequate safety and reliability have been taken into account in the design, construction, operation and maintenance of any installation, storage facility, equipment and infrastructure connected with the establishment's operation which are linked to major accident hazards inside the establishment; and
- (d) demonstrating that internal emergency plans have been drawn up and supplying information to enable the external emergency plan to be drawn up;
- (e) providing sufficient information to the competent authority to enable decisions to be made regarding the siting of new activities or developments around existing establishments.

Preparation of safety report

9.—(1) A safety report must contain as a minimum the data and information set out in Schedule 3, and must identify the organisations involved in preparing it.

(2) The operator of an upper tier establishment must send to the competent authority a safety report in relation to the establishment concerned in accordance with the following requirements—

- (a) for new establishments a reasonable period of time prior to—
 - (i) the start of construction of the establishment concerned;
 - (ii) the start of operation of the establishment concerned;
 - (iii) the modifications leading to a change in the inventory of dangerous substances;
- (b) for existing upper tier establishments by 1 June 2016, except for those operators where the review of the safety report is due before 1 June 2016 under regulation 8 of the 1999 Regulations, in which case the safety report must be sent to the competent authority no later than five years since the safety report was last sent to the competent authority under regulation 7, 8(1), or last notified under regulation 8(2); and
- (c) for other establishments two years from the date from when these Regulations apply to the establishment concerned.

(3) A safety report is not required to contain information already contained in a safety report prepared pursuant to regulation 8 and paragraph (1), and previously sent to the competent authority pursuant to a requirement within paragraph (2), if that information remains valid.

(4) Where an operator has previously prepared and sent to the competent authority a safety report in accordance with regulation 7 or regulation 8 of the 1999 Regulations, that operator may comply with the requirements in paragraph (2)(b) by sending the competent authority only those parts of the safety report that have been revised, pursuant to any requirement in regulation 8, this regulation and Schedule 3.

(5) The competent authority may specify in writing the format of those parts of the safety report, that are to be revised by the operator, to comply with paragraph (4).

(6) Paragraph (2)(b) does not apply where the operator has previously prepared and sent to the competent authority a safety report in accordance with regulation 7 or regulation 8 of the 1999 Regulations, where the information contained within that safety report remains materially unchanged, and complies with the requirements contained in regulation 8, this regulation and Schedule 3.

(7) Without prejudice to the requirements of regulation 23 (prohibition of operation) an operator must ensure—

- (a) where paragraph (2)(a)(i) applies that the construction of an establishment is not started until it has received from the competent authority the conclusions of its examination of the safety report;

- (b) where paragraph (2)(a)(ii) applies the operation of an establishment is not started until it has received from the competent authority the conclusions of its examination of the safety report; and
- (c) where paragraph (2)(a)(iii) applies the modifications leading to a change in the inventory of dangerous substances are not started until it has received from the competent authority the conclusions of its examination of the safety report.

Review of safety report

10.—(1) The safety report must be reviewed by the operator as follows—

- (a) following a major accident at the establishment concerned;
- (b) where a review is justified by new facts or by technological knowledge about safety matters, including knowledge arising from analysis of accidents or near misses;
- (c) where a review is justified by developments in knowledge concerning the assessment of hazards;
- (d) in the event of a modification of an establishment, process or of the nature or physical form or quantity of dangerous substances which could have significant consequences for major accident hazards;
- (e) whenever the operator makes a change to the safety management system (referred to in paragraph 1 of Schedule 3) which could have significant consequences for the prevention of major accidents or the limitation of the consequences of major accidents to human health and the environment;
- (f) in any event no later than five years since the previous safety report was sent to the competent authority, or where it was not sent, since it was last reviewed; and
- (g) [at the request of the competent authority, where in its opinion any of the matters at (b) to (f) apply,] and

where it is necessary the safety report must be revised.

(2) Except for where paragraph (1)(d) applies the revised safety report, or its revised parts, must be sent by the operator to the competent authority without delay.

(3) Where paragraph (1)(d) applies, the revised safety report, or its revised parts, must be sent by the operator to the competent authority in advance of the modification.

(4) [Where a safety report has been reviewed pursuant to paragraph (1), but not updated, the operator must inform the competent authority in writing of that fact.]

PART 4

EMERGENCY PLANS

Objectives of emergency plans

11. Every emergency plan which is produced by virtue of a requirement in these Regulations must have the following objectives—

- (a) containing and controlling incidents so as to minimise the effects, and to limit damage to human health, the environment and property;
- (b) implementing the necessary measures to protect human health and the environment from the effects of major accidents;
- (c) communicating the necessary information to the public and to the services or authorities concerned in the area; and
- (d) providing for the restoration and clean up of the environment following a major accident.

Internal emergency plan

12.—(1) Every operator of an upper tier establishment must prepare an internal emergency plan, for the measures to be taken inside the establishment.

(2) The internal emergency plan must be prepared in accordance with the following time limits—

- (a) for new establishments a reasonable period of time prior to the start of operation, or prior to the modifications leading to a change in the inventory of dangerous substances;
- (b) for existing establishments, by 1 June 2016 unless the on-site emergency plan prepared in accordance with regulation 9 of the 1999 Regulations remains materially unchanged and complies with the requirements of regulation 11 and this regulation;
- (c) for other establishments, two years from the date from which these Regulations apply to the establishment concerned.

(3) The internal emergency plan must contain the information set out in paragraph 1 of Schedule 4.

(4) In preparing the internal emergency plan the operator must consult the following—

- (a) persons working in the establishment;
- (b) the appropriate agency;
- (c) the emergency services;
- (d) the health authority for the area where the establishment is situated; and
- (e) the local authority in whose administrative area the establishment is situated, except that this requirement does not apply where the local authority has been exempted from the requirement to prepare an external emergency plan in respect of the establishment pursuant to regulation 15(1).

(5) Every operator that has prepared an emergency plan must at suitable intervals not exceeding three years—

- (a) review and where necessary update the plan; and
- (b) test the plan,

and such review must take into account changes occurring in the establishment concerned or within the emergency services concerned, new technical knowledge, and knowledge concerning the response to major accidents.

External emergency plan

13.—(1) The local authority in whose area there is an upper tier establishment must prepare an external emergency plan, for the measures to be taken outside the establishment.

(2) The external emergency plan must be prepared within 6 months (or such longer period not exceeding 9 months agreed by the competent authority in writing) following receipt of the necessary information from the operator.

(3) The operator must provide the local authority with the necessary information to enable the latter to prepare the external emergency plan.

(4) The information referred to in paragraph (3) must be supplied no later than the time when an internal emergency plan is required to be prepared for the site under regulation 12(2).

(5) The external emergency plan must contain the information set out in paragraph 2 of Schedule 4.

(6) In preparing the external emergency plan the local authority must consult the following—

- (a) the operator;
- (b) the appropriate agency;
- (c) the designated authorities; and
- (d) such members of the public and other persons as it considers appropriate.

Review and testing of external emergency plan

14.—(1) The local authority that has prepared an external emergency plan must at suitable intervals not exceeding three years—

- (a) review and where necessary update the plan; and
- (b) test the plan,

and such review must take into account changes occurring in the establishments concerned or within the designated authorities concerned, new technical knowledge, and knowledge concerning the response to major accidents.

(2) Where the local authority is of the opinion that in order to adequately test the emergency plan the co-operation of one or more designated authorities is necessary, it may in writing request such co-operation from those authorities.

(3) Where a designated authority has received a request in accordance with paragraph (2) it must co-operate in the testing of the emergency plan to which the request relates.

(4) Where the emergency plan is substantially updated the local authority must consult the persons referred to in regulation 13(6).

Exemption of local authority from preparing an external emergency plan

15.—(1) The competent authority may exempt a local authority from the requirement to prepare an external emergency plan in respect of an establishment where, in view of the information contained in the safety report, the competent authority has decided that the establishment is incapable of creating a major accident hazard beyond its boundary, and any such exemption must be in writing and state the reasons for granting it.

(2) The competent authority may withdraw (such withdrawal to be in writing) an exemption given to a local authority by stating the date on which the validity of the exemption will end and the date by which the emergency plan must be prepared.

(3) Where the competent authority has given a local authority an exemption, the local authority does not have a function for the duration of the validity of the exemption in relation to the matter under regulation 13(1) for the establishment concerned.

Implementing emergency plans

16. Every person who has prepared an emergency plan pursuant to a duty imposed by these Regulations must take reasonable steps to ensure that it is put into effect without delay when—

- (a) a major accident occurs; or
- (b) an uncontrolled event occurs which by its nature could reasonably be expected to lead to a major accident.

PART 5

INFORMATION

Provision of information to the public

17.—(1) The competent authority must ensure that in relation to all establishments the following information is made available to the public, including by electronic means—

- (a) the name of the operator and the address of the establishment;
- (b) confirmation that the establishment is subject to these Regulations and that the notification referred to in regulation 6 or the safety report referred to in regulation 9 has been submitted to the competent authority;

- (c) an explanation in simple terms of the activity or activities undertaken at the establishment;
- (d) the hazard classification of the relevant dangerous substances involved at the establishment which could give rise to a major accident, with an indication of their principal dangerous characteristics in simple terms;
- (e) general information about how persons in an area referred to in regulation 18(2) will be warned, if necessary; adequate information about the appropriate behaviour in the event of a major accident or indication of where that information can be accessed electronically;
- (f) the date of the last site visit, and where more detailed information about the inspection and the related inspection plan can be obtained upon request, subject to regulation 19;
- (g) details of where further relevant information can be obtained.

(2) The competent authority must ensure in relation to upper tier establishments that, in addition to the information in paragraph (1), the following information is made available to the public, including by electronic means—

- (a) general information relating to the nature of the major-accident hazards, including their potential effects on human health and the environment and summary details of the main types of major-accident scenarios and the control measures to address them;
- (b) confirmation that the operator is required to make adequate arrangements on site, in particular liaison with the emergency services, to deal with major accidents and to minimise their effects;
- (c) appropriate information from the external emergency plan drawn up to cope with any off-site effects from an accident. This should include advice to cooperate with any instructions or requests from the emergency services at the time of an accident;
- (d) where applicable, indication whether the establishment is close to the territory of another Member State with the possibility of a major accident with trans-boundary effects under the Convention of the United Nations Economic Commission for Europe on the Transboundary Effects of Industrial Accidents^(a).

(3) The competent authority must ensure that the information referred to in paragraph (1) and in the case of upper tier establishments also the information referred to in paragraph (2)—

- (a) becomes available to the public, including by electronic means, within a reasonable period of time from when the establishment becomes subject to these Regulations; and
- (b) is kept updated.

(4) The operator of an establishment must—

- (a) without having to receive a request provide the competent authority with—
 - (i) the information specified at paragraph (1)(a) to (e) and in the case of an upper tier establishment also with the information specified at paragraph (2)(a) to (d) ; and
 - (ii) revised information when it becomes necessary to update the information at paragraph (1)(a) to (e) and in the case of an upper tier establishment also when it becomes necessary to update the information specified at paragraph (2)(a) to (d),
- (b) comply with any reasonable request for information from the competent authority, within such period specified in the request, in connection with the preparation of the information referred to in paragraph (1) and in the case of an upper tier establishment also with the information specified at paragraph (2).

(5) The competent authority must specify in advance in writing—

- (a) the means by which operators must send the information or revised information referred to in paragraphs (1) and (2); and
- (b) the format in which such information or revised information is to be provided.

(a) O.J. No. L326, 3.12.1998, p. 1.

(6) The Environmental and Safety Information Act 1988(a) is to apply to a notice served under—

- (a) regulation 23 (prohibition of operation) as it applies to a notice served under section 22 of the 1974 Act;
- (b) section 21 of the 1974 Act in respect of a contravention of these Regulations.

(7) In applying paragraph (6), the reference in the third column of the Schedule, to the Environmental and Safety Information Act 1988, to an enforcing authority as defined in section 18(7)(a) of the 1974 Act, is to be read as if it were a reference to the competent authority.

Provision of information to persons likely to be affected by a major accident

18.—(1) The operator of an upper tier establishment must ensure that—

- (a) every person who is likely to be in an area referred to in paragraph (2); and
- (b) every school, hospital or other area of public use which is in an area referred to in paragraph (2),

is sent regularly and in the most appropriate form, without having to request it, clear and intelligible information on safety measures and requisite behaviour in the event of a major accident at the establishment.

(2) An area referred to in paragraph (1) is an area notified to the operator by the competent authority as being an area within which, in the opinion of the competent authority, persons are liable to be affected by a major accident occurring at the establishment.

(3) The information referred to in paragraph (1) must include at least the information required in regulation 17(1) and regulation 17(2).

(4) In preparing the information pursuant to paragraph (1) (on safety measures and requisite behaviour in the event of a major accident at the establishment) the operator must consult with the local authority in whose area the establishment is situated.

(5) The operator must review and where necessary revise the information referred to in paragraph (1)—

- (a) at intervals not exceeding 3 years; or
- (b) in the event of modifications leading to a change in the inventory of dangerous substances referred to in regulations 7(5)(a)(ii) and 9(2)(iii).

(6) The information referred to in paragraphs (1) and (5) must be sent to every person and every school, hospital or other area of public use referred to at paragraph (1)—

- (a) if it is revised pursuant to paragraph (5); or
- (b) at intervals not exceeding 5 years.

Provision of information pursuant to a request

19.—(1) Subject to paragraphs (2) and (3), where the competent authority receives a request to make available environmental information that it holds, relating to its functions under these Regulations, it must deal with the request in accordance with the provisions of the 2004 Regulations.

(2) Where an operator is of the opinion that information which it has sent to the competent authority pursuant to a duty imposed on it by these Regulations should not be made available by reason of regulations 12 and 13 of the 2004 Regulations, the operator must at the time of sending the information inform the competent authority in writing of its opinion.

(3) Where the operator has informed the competent authority of its opinion in accordance with paragraph (2), the competent authority must take into account that opinion in dealing with any request for information.

(a) 1988 c. 30.

Trans-boundary effects

20.—(1) Where an upper tier establishment presents a major accident hazard with possible trans-boundary effects the competent authority must provide sufficient information to the potentially affected member state so that this can be taken into account in preparing emergency plans and in preparing land use planning policies, or in making land use planning decisions in respect of applications.

(2) Where the competent authority has decided that an upper tier establishment close to the territory of another member state is incapable of creating a major accident hazard beyond the boundary of the establishment for the purposes of regulation 14 and is therefore exempted from the requirement to produce an external emergency plan, it must notify that member state of its decision and its reasons.

Provision supplementary to regulations 17 to 20

21. Regulations 17 to 20 apply notwithstanding the provisions of—

- (a) section 28 of the 1974 Act;
- (b) Schedule 9 to the Energy Act 2013.

PART 6

FUNCTIONS OF COMPETENT AUTHORITY

Examination of the safety report by the competent authority

22. The competent authority must within a reasonable period of time following receipt of the safety report—

- (a) communicate the conclusions of its examination of the safety report to the operator of the establishment concerned; or
- (b) prohibit the bringing into operation, or continued operation of the establishment concerned or any part of it in accordance with regulation 23.

Prohibition of operation

23.—(1) The competent authority must prohibit, by serving a notice giving reasons, the operation or bringing into operation of any establishment, installation or storage facility, or any part of any establishment, installation or storage facility where the measures taken by the operator for the prevention and mitigation of major accidents are seriously deficient.

(2) The competent authority may prohibit, by serving a notice giving reasons, the operation or bringing into operation of any establishment, installation or storage facility, or any part any establishment, installation or storage facility if the operator has not submitted any notification, report or other information required by these Regulations within the specified time.

(3) A notice served pursuant to paragraph (1) or (2) must specify the date when it is to take effect and any such notice may be withdrawn in writing by the competent authority.

(4) In considering whether to prohibit the operation or bringing into operation of any establishment, installation or storage facility, or any part of any establishment, installation or storage facility under paragraph (1) the competent authority must, amongst other matters, take into account serious failures by the operator to take the necessary actions identified by the competent authority in a communication sent to the operator pursuant to regulation 25(8)(a).

(5) The operator must comply with any notice served in accordance with paragraph (1) or (2).

(6) Section 24 of the 1974 Act (appeal against improvement or prohibition notice) and, in England and Wales, regulation 8(4)(b) of, and Schedule 4 to, the Employment Tribunals (Constitution and Rules of Procedure) Regulations 1993^(a) and, in Scotland, regulation 8(4)(b) of, and Schedule 4 to the Employment Tribunals (Constitution and Rules of Procedure) (Scotland) Regulations 1993^(b) apply in relation to a notice served under this regulation as they apply in relation to a prohibition notice served under section 22 of that Act.

Domino effects

24.—(1) The competent authority must identify groups of establishments where the risk or consequences of a major accident may be increased because of the—

- (a) geographical position of establishments;
- (b) proximity of establishments to each other; and
- (c) inventories of dangerous substances held by establishments.

(2) In identifying groups of establishments for the purposes of paragraph (1) the competent authority may use the following sources of information—

- (a) notifications sent pursuant to regulation 6;
- (b) safety reports;
- (c) information held by the competent authority pursuant to its functions under the Planning (Hazardous Substances) Regulations 1992^(c) in England and Wales, the Town and County Planning (Hazardous Substances)(Scotland) Regulations 1993^(d) in Scotland; or
- (d) from inspections and investigations at establishments.

(3) In addition to the sources of information referred to in paragraph (2) the competent authority may request additional information from an operator.

(4) Where the competent authority has information in addition to that provided by an operator about the immediate environment of an establishment, and factors which are likely to cause a major accident or to aggravate the consequences of a major accident, including—

- (a) details of neighbouring establishments;
- (b) sites that fall outside the scope of these Regulations; or
- (c) areas and developments that could be the source of or increase the risk or consequences of a major accident and of domino effects,

the competent authority must provide such information to the operator.

(5) Where the competent authority has identified a group of establishments for the purposes of paragraph (1) it must notify the operators of those establishments of the names and addresses of other establishments within the same group.

(6) Where an operator has received notification pursuant to paragraph (5), and using any information received pursuant to paragraph (4), it must cooperate with the operators of other establishments within the same group in—

- (a) putting in place arrangements for the exchange of suitable information with each other so as to take account of the nature and extent of the major accident hazards in—
 - (i) the case of every operator, in its—

(a) Amended by S.I.1994/538 and 1996/1758. The title of these Regulations, formerly the “Industrial Tribunals (Constitution and Rules of Procedure) Regulations 1993” was amended by operation of section 1 of the Employment Rights (Dispute Resolution) Act 1998 c. 8.

(b) Amended by S.I.1994/538 and 1996/1758. The title of these Regulations, formerly the “Industrial Tribunals (Constitution and Rules of Procedure) (Scotland) Regulations 1993” was amended by operation of section 1 of the Employment Rights (Dispute Resolution) Act 1998 c. 8.

(c) S.I. 1992/656. Schedule 1 to those Regulations has been substituted by S.I. 2009/1901. Other amendments have been made to Schedule 1 to those Regulations by S.I. 1999/981 and S.I. 2010/1050, but are not relevant to these Regulations.

(d) S.I. 1993/323 (S.31) as amended by S.I. 1994/2567, S.I. 1996/252, S.S.I. 2003/1, S.S.I. 2005/344, S.I. 2005/1082, S.S.I. 2006/270, S.S.I. 2009/378 and S.S.I. 2010/171.

- (aa) major accident prevention policy;
- (bb) safety management system,
- (ii) the case of an operator of an upper tier establishment, in its—
 - (aa) safety report;
 - (bb) internal emergency plan; and
 - (cc) provision of information to persons likely to be affected by a major accident pursuant to regulation 18,
- (b) informing neighbouring sites to whom these Regulations do not apply of their proximity to a domino group and in appropriate cases to provide suitable information to those sites; and
- (c) supplying the local authority with information relevant for the purposes of preparing the external emergency plan.

Inspections and investigations

25.—(1) The competent authority must organise a system of inspections of establishments appropriate to the type of establishment concerned.

(2) Inspections organised pursuant to paragraph (1) should not be dependent on the receipt of any report submitted by the operator and must be sufficient for a planned and systematic examination of the technical, organisational and management systems being employed at the establishment so as to ensure in particular that—

- (a) the operator can demonstrate that it has taken appropriate measures, in connection with the various activities of the establishment, to prevent major accidents;
- (b) the operator can demonstrate that it has provided appropriate means for limiting the consequences of major accidents;
- (c) the data and information contained in the safety report, or any other report submitted by the operator adequately reflects the conditions in the establishment; and
- (d) information has been supplied to the public in accordance with regulations 17 and 18.

(3) A system of inspections referred to in paragraph (1) must ensure that all establishments are covered by an inspection plan, which is regularly reviewed and updated as appropriate, and which includes the following requirements—

- (a) a general assessment of relevant safety issues;
- (b) the geographical area covered by the inspection plan;
- (c) a list of the establishments covered by the plan;
- (d) a list of groups of establishments with possible domino effects pursuant to regulation 24;
- (e) a list of establishments where particular external risks or hazard sources could increase the risk or consequences of a major accident;
- (f) procedures for routine inspections, including the programmes for such inspections pursuant to paragraph (4);
- (g) procedures for non-routine inspections pursuant to paragraph (7); and
- (h) provisions on co-operation with the Executive or the ONR and the appropriate agency.

(4) Based on the inspection plan referred to in paragraph (3) the competent authority must prepare programmes for routine inspections of all establishments.

(5) In preparing programmes for routine inspections of all establishments referred to in paragraph (4) the competent authority must ensure in particular that—

- (a) it has prepared a systematic appraisal of major accident hazards of establishments;
- (b) the programmes are regularly reviewed and updated where necessary; and
- (c) the programmes provide for the frequency of site visits for different types of establishment.

(6) In carrying out a systematic appraisal referred to in paragraph (5)(a) the competent authority must take account of the following—

- (a) the potential impacts of the establishments concerned on human health and the environment;
- (b) the record of the operator of the establishment in complying with the requirements of these regulations; and
- (c) the relevant findings, if any, of inspections carried out in England and Wales, under the Environmental Permitting (England and Wales) Regulations 2010^(a) and in Scotland, the Pollution Prevention and Control (Scotland) Regulations 2012^(b).

(7) The competent authority must investigate as soon as possible, where it has come to its attention in relation to an establishment that there have been—

- (a) serious complaints;
- (b) serious accidents and near misses; or
- (c) occurrences of significant non-compliance with these Regulations.

(8) Following the conclusion of each inspection or investigation referred to in paragraphs (2) and (7) the competent authority must—

- (a) communicate its conclusions and all the necessary actions it requires to be taken to the operator within 4 months;
- (b) take reasonable steps to ensure that the operator takes all the necessary actions within a reasonable time after receipt of the communication containing the conclusions; and
- (c) within 6 months carry out an additional inspection where it has identified an important case of non-compliance with these Regulations.

(9) Where the competent authority considers it to be expedient, inspections and investigations pursuant to this regulation may be co-ordinated with inspections and investigations carried out by the appropriate agency pursuant to, in England and Wales, the Environmental Permitting (England and Wales) Regulations 2010, and in Scotland the Pollution Prevention and Control (Scotland) Regulations 2012.

Enforcement

26.—(1) To the extent they would not otherwise do so, the following provisions of the 1974 Act apply to these Regulations as if they were health and safety regulations for the purposes of that Act and any function of the Executive under any other provision of the 1974 Act under or in respect of health and safety regulations (including their enforcement) is exercisable as if these Regulations were, to the extent they would not otherwise be so, health and safety regulations for the purposes of that Act—

- (a) sections 16 to 21 (approval of codes of practice and enforcement);
- (b) section 23 (provisions supplementary to sections 21 and 22) and section 24 (appeal against improvement or prohibition notice), so far as they relate to an improvement notice;
- (c) section 26 (power to indemnify inspectors); and
- (d) sections 33 to 42 (provisions as to offences).

(2) Section 18(1) of the 1974 Act (duty to make adequate arrangements for enforcement) applies in relation to the enforcement of these Regulations as if the reference to the Executive included a reference to the appropriate agency, but nothing in this paragraph has the effect of making the appropriate agency an enforcing authority for the purposes of the 1974 Act.

(3) Without prejudice to the—

(a) S.I. 2010/675
(b) S.I. 2012/360

- (a) provisions of the 1974 Act referred to in paragraph (1), section 108(1) of the Environment Act 1995 has effect in relation to a person authorised by the appropriate agency as if the reference in that section to a pollution control enactment included a reference to these Regulations and as if the reference to a pollution control function included a reference to any function conferred or imposed on the appropriate agency by or under these Regulations; and
- (b) functions of an inspector appointed under section 19 of the 1974 Act, a person referred to in paragraph (3)(a) may, notwithstanding that the person is not an inspector so appointed serve an improvement notice under section 21 of that Act in respect of a contravention of these Regulations, and the reference to an inspector in section 23(4) that Act is to have effect accordingly.

(4) A failure to discharge a function placed on the competent authority by these Regulations is not an offence, and section 33(1)(c) of the 1974 Act has effect accordingly.

(5) Subject to section 18(1A) of the 1974 Act and paragraphs (6) and (7) but, notwithstanding the Health and Safety (Enforcing Authority) Regulations 1998(a), the Executive is, for the purposes of the 1974 Act, the enforcing authority for the relevant statutory provisions at an establishment to which these Regulations apply.

(6) Paragraph (5) does not apply in relation to any establishment which is a nuclear establishment.

(7) The ONR is, for the purposes of the 1974 Act, the enforcing authority for the relevant statutory provisions at an establishment which is a nuclear establishment.

PART 7

ACTION TO BE TAKEN FOLLOWING A MAJOR ACCIDENT

Action to be taken following a major accident

27.—(1) Following a major accident, the operator of the establishment where the accident has occurred must as soon as practicable—

- (a) inform the competent authority of the occurrence of the accident;
- (b) provide the competent authority with the following information as soon as it becomes available—
 - (i) the circumstances of the accident;
 - (ii) the dangerous substances involved;
 - (iii) the data available for assessing the effects of the accident on human health, the environment and property; and
 - (iv) the emergency measures taken,
- (c) inform the competent authority of the steps it is envisaged are required in order to—
 - (i) mitigate the medium term and long term effects of the accident; and
 - (ii) prevent any recurrence of such an accident,
- (d) update the information provided if further investigation reveals additional facts which alter that information or the conclusions drawn.

(2) Following a major accident the competent authority must—

- (a) ensure that any urgent, medium term and long term measures which may prove necessary are taken;

(a) S.I. 1998/494 as amended by the following 1999/2024; 1999/3232/; 2002/2675; 5005/1082; 2005/1541; 2005/2060; 2006/2739; 2007/320; 2007/2598; 2008/960; 2009/693; 2009/716.

- (b) collect by inspection, investigation or other appropriate means the information necessary for a full analysis of the technical, organisational and managerial aspects of the accident;
- (c) take appropriate action to ensure that the operator takes any necessary remedial measures; and
- (d) make recommendations on future preventive measures.

(3) Where a major accident meets the criteria in Schedule 5 the competent authority must as soon as it is practicable, and in any event within one year of the date of the accident, provide the European Commission with the following information—

- (a) the member state where the accident occurred, and the name and address of the competent authority responsible for the report;
- (b) the date, time and place of the accident, including the full name of the operator and the address of the establishment involved;
- (c) a brief description of the circumstances of the accident, including the dangerous substances involved and the immediate effects on human health and the environment;
- (d) a brief description of the emergency measures taken and of the immediate precautions necessary to prevent recurrence; and
- (e) the results of the competent authority's analysis and recommendations.

(4) In relation to paragraph (3)(e)—

- (a) where the competent authority is able only to provide preliminary information, it must provide updated information to the European Commission when the results of further analysis and recommendations are available; and
- (b) the provision of information to the European Commission may be delayed where in the opinion of the competent authority to report such information risks prejudicing the conduct of existing or future legal proceedings.

(5) Following a major accident the local authority in whose administrative area the accident has occurred must inform the persons likely to be affected, of the accident which has occurred and where relevant, of the measures undertaken to mitigate its consequences.

(6) This regulation applies notwithstanding the provisions of section 28 of the 1974 Act.

PART 8

FEES

Fee payable by operator to the competent authority

28.—(1) A fee is payable by the operator of an establishment to the competent authority for the performance by or on behalf of the competent authority of any functions conferred on the authority by these Regulations, except that no fee payable under this regulation is to include any costs connected with—

- (a) in England and Wales, any criminal investigation or prosecution incurred, in either case, from the date any summons is obtained from a Magistrates Court;
- (b) in Scotland, criminal investigation or prosecution incurred, in either case, after such time as—
 - (i) the inspector or authorised person undertaking the investigation submits a report to the Procurator Fiscal for a decision as to whether a prosecution should be brought; or
 - (ii) the Procurator Fiscal intervenes in the investigation,
 whichever is the sooner.

- (c) any appeal pursuant to section 24 of the 1974 Act incurred from the date that a claim has been presented pursuant to the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013(a);
- (d) functions of the competent authority related to regulation 12.

(2) A fee is payable by the operator of an upper tier establishment to the competent authority for the performance by or on behalf of the Executive or of the ONR, or by an inspector appointed by them, of any function conferred on the Executive or the ONR, or the inspector by the 1974 Act which relates to the enforcement of any of the relevant statutory provisions against one or more of the following—

- (a) the operator of the establishment; or
- (b) a contractor in relation to any work carried out by the contractor on or in connection with that establishment,

except in the case of an establishment where the presence of the dangerous substance at the establishment is, in the opinion of the competent authority, for a purpose ancillary to the main activity at the establishment.

(3) Any fee under this regulation must not exceed the sum of the costs reasonably incurred by the competent authority for the performance of the functions in relation to the establishment concerned.

(4) Any fee is payable within 30 days from the date of the invoice sent by or on behalf of the competent authority to the operator.

(5) The invoice referred to at paragraph (4) must include a statement of the work done and the costs incurred by or on behalf of the competent authority, including the period to which the statement relates.

(6) The Executive or the ONR as the case may be must pay to the appropriate agency any fee or part of any such fee it recovers as is attributable to work done by or on behalf of the appropriate agency or by an authorised person in performing the functions concerned and the appropriate agency must pay to the Executive or the ONR as the case may be any such fee or part of any such fee it recovers as is attributable to work done by or on behalf of the Executive or the ONR or by an inspector in performing the functions concerned.

(7) Any fee payable under this regulation is recoverable only as a civil debt.

(8) In this regulation any reference to work carried out by a contractor is a reference to work carried out by the contractor or by the contractor's employees for the benefit of the person by whom the fees are payable under this regulation, whether pursuant to an agreement or an arrangement made with that person or with another person.

Fee payable to local authority for preparation, review and testing of external emergency plan

29.—(1) A local authority may charge the operator a fee for performing the functions under regulations 13 and 14.

(2) Any fee under this regulation must not exceed the sum of the costs reasonably incurred by the local authority for the performance of the functions referred to in paragraph (1) in relation to the establishment concerned.

(3) Without prejudice to the generality of paragraph (2) the fees include any costs reasonably incurred by the local authority in arranging for the designated authorities to participate in the testing of the external emergency plan.

(4) Any fee is payable within 30 days from the date of the invoice sent by or on behalf of the local authority to the operator.

(a) S.I. 2013/1237

(5) The invoice referred to at paragraph (4) must include a statement of the work done and the costs incurred by or on behalf of the local authority, including the period to which the statement relates.

(6) Any fee payable under this regulation is recoverable only as a civil debt.

PART 9

AMENDMENTS, REVOCATIONS, SAVINGS AND TRANSITIONAL PROVISIONS

Amendments

30.—(1) TO ADD AS NECESSARY.

Revocations

31. The 1999 Regulations, the Control of Major Accident Hazards (Amendment) Regulations 2005^(a), regulation 3 of the Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2013^(b) and the Heavy Fuel Oil (Amendment) Regulations 2014^(c) are revoked.

Savings

32.—(1) A notification previously sent by an operator to the competent authority under the requirements of regulation 6 of the 1999 Regulations (including where regulation 6(3) of the 1999 Regulations applies and a report was sent to the Executive in accordance with regulation 7 of the Control of Industrial Major Accident Hazards Regulations 1984^(d)) has effect for the purposes of these Regulations as if it had been sent under regulation 6, until such time as the operator has sent to the competent authority a notification in accordance with regulation 6.

(2) A major accident prevention policy document prepared under the requirements of regulation 5 of the 1999 Regulations has effect for the purposes of these Regulations as if it had been prepared under regulation 7, until such time as the operator has prepared a major accident prevention policy document in accordance with regulation 7.

(3) For existing upper tier establishments, regulations 8(1)(a), 8(1)(b), 8(2), 8(3) and 8(4) of the 1999 Regulations apply as if those Regulations had not been revoked, until such time as a safety report has been sent by the operator to the competent authority under regulation 9(2)(b).

(4) Except where regulation 12(2)(b) applies, an on-site emergency plan prepared pursuant to regulation 9 of the 1999 Regulations must be kept up to date as if those regulations had not been revoked, until such time as the operator has prepared an internal emergency plan in accordance with regulation 12.

(5) An off-site emergency plan prepared pursuant regulation 10 of the 1999 Regulations must be kept up to date as if those regulations had not been revoked, until such time as an external emergency plan has been prepared in accordance with regulation 13.

(6) During the period when paragraphs (4) and (5) apply, the requirements of regulations 11 and 12 of the 1999 Regulations continue to have effect as if those regulations had not been revoked.

(7) Where regulation 14 (provision of information to the public) of the 1999 Regulations applied to an establishment before the coming into force of these Regulations, the operator of the establishment must comply with the requirements of that regulation as if those regulations had not been revoked, until such time as the operator has complied with the requirements in regulation 18.

(a) S.I. 2005/1088.

(b) S.I. 2013/766.

(c) S.I. 2014/162.

(d) S.I. 1984/1902.

(8) Where the competent authority has designated a group of establishments for the purposes of regulation 16 of the 1999 Regulations, such designation continues to have effect and is deemed to have been made under regulation 24.

(9) These Regulations do not affect any enforcement action taken by the competent authority pursuant to its powers under regulation 20 of the 1999 Regulations or under the 1974 Act and any such enforcement action (including legal proceedings) may be continued as if the 1999 Regulations had not been revoked.

(10) Any prohibition of use issued pursuant to regulation 18 of the 1999 Regulations continues to have effect after the coming into force of these Regulations as if it had been issued under regulation 23 of these Regulations.

(11) Any fee which may be payable to the competent authority pursuant to regulation 22 of the 1999 Regulations continues to be payable after the coming into force of these Regulations as if the 1999 Regulations had not been revoked.

(12) Any fee which may be payable to a local authority pursuant to regulation 13 of the 1999 Regulations continues to be payable after the coming into force of these Regulations as if the 1999 Regulations had not been revoked.

Transitional provision

33.—(1) Where a safety report referred to in regulation 32(3) is required to be kept up to date by virtue of that regulation, the reference in regulation 17(1)(b) to the safety report referred to in regulation 9 is to be construed as a reference to a safety report referred to in regulation 32(3).

PART 10

REVIEW

Review

34.—(1) The Secretary of State must from time to time—

- (a) carry out a review of these Regulations;
- (b) set out the conclusions of the review in a report; and
- (c) publish the report.

(2) In carrying out the review the Secretary of State must, so far as is reasonable, have regard to how the Directive is implemented in other member states.

(3) The report must in particular—

- (a) set out the objectives intended to be achieved by the Directive and by these Regulations;
- (b) assess the extent to which those objectives are achieved; and
- (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(4) The first report under this regulation must be published before the end of the period of five years beginning with the day on which these Regulations come into force.

(5) Reports under this regulation must afterwards be published at intervals not exceeding five years.

Signed by authority of the Secretary of State

Address
Date

Name
Minister of State
Department of Work and Pensions

SCHEDULES

SCHEDULE 1

DANGEROUS SUBSTANCES

Dangerous substances covered by the hazard categories listed in Column 1 of Part 1 of this Schedule are subject to the qualifying quantities set out in Columns 2 and 3 of Part 1.

Where a dangerous substance is covered by Part 1 of this Schedule and is also listed in Part 2, the qualifying quantities set out in Columns 2 and 3 of Part 2 apply.

PART 1

Categories of dangerous substances

This Part covers all dangerous substances falling under the hazard categories listed in Column 1:

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
Hazard categories in accordance with the CLP Regulation	Qualifying quantity in tonnes of dangerous substances for the application of:	
	Lower tier requirements	Upper tier requirements
Section 'H' – HEALTH HAZARDS		
H1 ACUTE TOXIC Category 1, all exposure routes	5	20
H2 ACUTE TOXIC — Category 2, all exposure routes — Category 3, inhalation exposure route (see note 7)	50	200
H3 STOT SPECIFIC TARGET ORGAN TOXICITY – SINGLE EXPOSURE STOT SE Category 1	50	200
Section 'P' – PHYSICAL HAZARDS		
P1a EXPLOSIVES (see note 8) — Unstable explosives or — Explosives, Division 1.1, 1.2, 1.3, 1.5 or 1.6, or — Substances or mixtures having explosive properties according to method A.14 of Regulation (EC) No 440/2008 (see note 9) and do not belong to the hazard classes Organic peroxides or Self-reactive substances and mixtures	10	50
P1b EXPLOSIVES (see note 8) Explosives, Division 1.4 (see note 10)	50	200
P2 FLAMMABLE GASES Flammable gases, Category 1 or 2	10	50
P3a FLAMMABLE AEROSOLS (see note 11.1) 'Flammable' aerosols Category 1 or 2, containing flammable gases Category 1 or 2 or flammable liquids Category 1	150 (net)	500 (net)
P3b FLAMMABLE AEROSOLS (see note 11.1) 'Flammable' aerosols Category 1 or 2, not containing flammable gases Category 1 or 2 nor flammable liquids category 1 (see note 11.2)	5,000 (net)	50,000 (net)
P4 OXIDISING GASES Oxidising gases, Category 1	50	200
P5a FLAMMABLE LIQUIDS	10	50

— Flammable liquids, Category 1, or — Flammable liquids Category 2 or 3 maintained at a temperature above their boiling point, or — Other liquids with a flash point ≤ 60 °C, maintained at a temperature above their boiling point (see note 12)		
P5b FLAMMABLE LIQUIDS — Flammable liquids Category 2 or 3 where particular processing conditions, such as high pressure or high temperature, may create major-accident hazards, or — Other liquids with a flash point ≤ 60 °C where particular processing conditions, such as high pressure or high temperature, may create major-accident hazards (see note 12)	50	200
P5c FLAMMABLE LIQUIDS Flammable liquids, Categories 2 or 3 not covered by P5a and P5b	5,000	50,000
P6a SELF-REACTIVE SUBSTANCES AND MIXTURES and ORGANIC PEROXIDES Self-reactive substances and mixtures, Type A or B or organic peroxides, Type A or B	10	50
P6b SELF-REACTIVE SUBSTANCES AND MIXTURES and ORGANIC PEROXIDES Self-reactive substances and mixtures, Type C, D, E or F or organic peroxides, Type C, D, E, or F	50	200
P7 PYROPHORIC LIQUIDS AND SOLIDS Pyrophoric liquids, Category 1 Pyrophoric solids, Category 1	50	200
P8 OXIDISING LIQUIDS AND SOLIDS Oxidising Liquids, Category 1, 2 or 3, or Oxidising Solids, Category 1, 2 or 3	50	200
Section 'E' – ENVIRONMENTAL HAZARDS		
E1 Hazardous to the Aquatic Environment in Category Acute 1 or Chronic 1	100	200
E2 Hazardous to the Aquatic Environment in Category Chronic 2	200	500
Section 'O' – OTHER HAZARDS		
O1 Substances or mixtures with hazard statement EUH014	100	500
O2 Substances and mixtures which in contact with water emit flammable gases, Category 1	100	500
O3 Substances or mixtures with hazard statement EUH029	50	200

PART 2

Named Dangerous Substances

<i>Column 1</i>	<i>CAS number (see note 22)</i>	<i>Column 2</i>	<i>Column 3</i>
		Qualifying quantity (tonnes) for the application of	
Dangerous substances		Lower tier requirements	Upper tier requirements
1. Ammonium nitrate (see note 13)	-	5,000	10,000
2. Ammonium nitrate (see note 14)	-	1,250	5,000
3. Ammonium nitrate (see note 15)		350	2,500
4. Ammonium nitrate (see note 16)	-	10	50
5. Potassium nitrate (see note 17)	-	5,000	10,000

6. Potassium nitrate (see note 18)	-	1,250	5,000
7. Arsenic pentoxide, arsenic (V) acid and/or salts	1303-28-2	1	2
8. Arsenic trioxide, arsenious (III) acid and/or salts	1327-53-3		0.1
9. Bromine	7726-95-6	20	100
10. Chlorine	7782-50-5	10	25
11. Nickel compounds in inhalable powder form: nickel monoxide, nickel dioxide, nickel sulphide, trinickel disulphide, dinickel trioxide	-		1
12. Ethyleneimine	151-56-4	10	20
13. Fluorine	7782-41-4	10	20
14. Formaldehyde (concentration \geq 90 %)	50-00-0	5	50
15. Hydrogen	1333-74-0	5	50
16. Hydrogen chloride (liquefied gas)	7647-01-0	25	250
17. Lead alkyls	-	5	50
18. Liquefied flammable gases, Category 1 or 2 (including LPG) and natural gas (see note 19)	-	50	200
19. Acetylene	74-86-2	5	50
20. Ethylene oxide	75-21-8	5	50
21. Propylene oxide	75-56-9	5	50
22. Methanol	67-56-1	500	5,000
23. 4, 4'-Methylene bis (2-chloraniline) and/or salts, in powder form	101-14-4		0.01
24. Methylisocyanate	624-83-9		0.15
25. Oxygen	7782-44-7	200	2,000
26. 2,4 -Toluene diisocyanate 2,6 -Toluene diisocyanate	584-84-9 91-08-7	10	100
27. Carbonyl dichloride (phosgene)	75-44-5	0.3	0.75
28. Arsine (arsenic trihydride)	7784-42-1	0.2	1
29. Phosphine (phosphorus trihydride)	7803-51-2	0.2	1
30. Sulphur dichloride	10545-99-0		1
31. Sulphur trioxide	7446-11-9	15	75
32. Polychlorodibenzofurans and polychlorodibenzodioxins (including TCDD), calculated in TCDD equivalent (see note 20)	-		0.001
33. The following CARCINOGENS or the mixtures containing the following carcinogens at concentrations above 5% by weight: 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	-	0.5	2
34. Petroleum products and alternative fuels (a) gasolines and naphthas, (b) kerosenes (including jet fuels), (c) gas oils (including diesel fuels, home heating oils and gas oil	-	2,500	25,000

blending streams) (d) heavy fuel oils (e) alternative fuels serving the same purposes and with similar properties as regards flammability and environmental hazards as the products referred to in points (a) to (d)			
35. Anhydrous Ammonia	7664-41-7	50	200
36. Boron trifluoride	7637-07-2	5	20
37. Hydrogen sulphide	7783-06-4	5	20
38. Piperidine	110-89-4	50	200
39. Bis(2-dimethylaminoethyl) (methyl)amin	3030-47-5	50	200
40. 3-(2-Ethylhexyloxy)propylamin	5397-31-9	50	200
41. Mixtures (*) of sodium hypochlorite classified as Aquatic Acute Category 1 [H400] containing less than 5 % active chlorine and not classified under any of the other hazard categories in Part 1 of Schedule 1. _____ (*) Provided that the mixture in the absence of sodium hypochlorite would not be classified as Aquatic Acute Category 1 [H400].		200	500
42. Propylamine (see note 21)	107-10-8	500	2,000
43. Tert-butyl acrylate (see note 21)	1663-39-4	200	500
44. 2-Methyl-3-butenitrile (see note 21)	16529-56-9	500	2,000
45. Tetrahydro-3,5-dimethyl-1,3,5,-thiadiazine-2-thione (Dazomet) (see note 21)	533-74-4	100	200
46. Methyl acrylate (see note 21)	96-33-3	500	2,000
47. 3-Methylpyridine (see note 21)	108-99-6	500	2,000
48. 1-Bromo-3-chloropropane (see note 21)	109-70-6	500	2,000

(1) Substances and mixtures are classified in accordance with the CLP Regulation.

(2) Mixtures shall be treated in the same way as pure substances provided they remain within concentration limits set according to their properties under the CLP Regulation, or its latest adaptation to technical progress, unless a percentage composition or other description is specifically given.

(3) The qualifying quantities set out above relate to each establishment.

The quantities to be considered for the application of these Regulations are the maximum quantities which are present or are likely to be present at any one time. Dangerous substances present at an establishment only in quantities equal to or less than 2% 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 at that establishment.

(4) The following rules governing the addition of dangerous substances, or categories of dangerous substances, apply where appropriate.

In the case of an establishment where no individual dangerous substance is present in a quantity above or equal to the relevant qualifying quantities, the following rule must be applied to determine whether the establishment is covered by the relevant requirements of these Regulations.

These Regulations apply to upper tier establishments 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 q_x = the quantity of dangerous substance x (or category of dangerous substances) falling within Part 1 or Part 2 of this Schedule; and

Q_{UX} = the relevant qualifying quantity for dangerous substance or category x from Column 3 of Part 1 or from Column 3 of Part 2 of this Schedule.

These Regulations apply to lower tier establishments 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 q_x = the quantity of dangerous substance x (or category of dangerous substances) falling within Part 1 or Part 2 of this Schedule; and

Q_{LX} = the relevant qualifying quantity for dangerous substance or category x from Column 2 of Part 1 or from Column 2 of Part 2 of this Schedule.

This rule must be used to assess the health hazards, physical hazards and environmental hazards. It must therefore be applied three times—

- (a) for the addition of dangerous substances listed in Part 2 that fall within acute toxicity category 1, 2 or 3 (inhalation route) or STOT SE category 1, together with dangerous substances falling within section H, entries H1 to H3 of Part 1;
- (b) for the addition of dangerous substances listed in Part 2 that are explosives, flammable gases, flammable aerosols, oxidising gases, flammable liquids, self-reactive substances and mixtures, organic peroxides, pyrophoric liquids and solids, oxidising liquids and solids, together with dangerous substances falling within section P, entries P1 to P8 of Part 1;
- (c) for the addition of dangerous substances listed in Part 2 that fall within hazardous to the aquatic environment acute category 1, chronic category 1 or chronic category 2, together with dangerous substances falling within section E, entries E1 and E2 of Part 1.

The relevant provisions of these Regulations apply where any of the sums obtained by (a), (b) or (c) is greater than or equal to 1.

⁽⁵⁾ In the case of dangerous substances which are not covered by the CLP Regulation, including waste, but which nevertheless are present, or are likely to be present, in an establishment and which possess or are likely to possess, under the conditions found at the establishment, equivalent properties in terms of major accident potential, these must be provisionally assigned to the most analogous category or named dangerous substance falling within the scope of these Regulations.

⁽⁶⁾ In the case of dangerous substances with properties giving rise to more than one classification, for the purposes of these Regulations the lowest qualifying quantities apply. However, for the application of the rule in Note 4, the lowest qualifying quantity for each group of categories in Notes 4(a), 4(b) and 4(c) corresponding to the classification concerned must be used.

⁽⁷⁾ Dangerous substances that fall within Acute Toxic Category 3 via the oral route (H 301) fall under entry H2 ACUTE TOXIC in those cases where neither acute inhalation toxicity classification nor acute dermal toxicity classification can be derived, for example due to lack of conclusive inhalation and dermal toxicity data.

⁽⁸⁾ The hazard class Explosives includes explosive articles (see Section 2.1 of Annex I to the CLP Regulation). If the quantity of the explosive substance or mixture contained in the article is known, that quantity must be considered for the purposes of these Regulations. If the quantity of the explosive substance or mixture contained in the article is not known, then, for the purposes of these Regulations, the whole article must be treated as explosive.

⁽⁹⁾ Testing for explosive properties of substances and mixtures is only necessary if the screening procedure according to Appendix 6, Part 3 of the UN Recommendations on the Transport of Dangerous Goods, Manual of Tests and Criteria (UN Manual of Tests and Criteria)(a) identifies the substance or mixture as potentially having explosive properties.

⁽¹⁰⁾ If Explosives of Division 1.4 are unpacked or repacked, they shall be assigned to the entry P1a, unless the hazard is shown to still correspond to Division 1.4, in accordance with the CLP Regulation.

^(11.1) Flammable aerosols are classified in accordance with the Council Directive 75/324/EEC of 20 May 1975 on the approximation of the laws of the Member States relating to aerosol dispensers(b) (Aerosol Dispensers Directive). “Extremely flammable” and “Flammable” aerosols of Directive 75/324/EEC correspond to Flammable Aerosols Category 1 or 2 respectively of the CLP Regulation.

^(11.2) In order to use this entry, it must be documented that the aerosol dispenser does not contain Flammable Gas Category 1 or 2 nor Flammable Liquid Category 1.

⁽¹²⁾ According to paragraph 2.6.4.5 in Annex I to the CLP Regulation, liquids with a flash point of more than 35 °C need not be classified in Category 3 if negative results have been obtained in the sustained combustibility test L.2, Part III, section 32 of the UN Manual of Tests and Criteria. This is however not valid under elevated conditions such as high temperature or pressure, and therefore such liquids are included in this entry.

(a) More guidance on waiving of the test can be found in the A.14 method description, see Commission Regulation (EC) No 440/2008 of 30 May 2008 laying down test methods pursuant to Regulation (EC) No 1907/2006 of the European Parliament and of the Council on the Registration Evaluation, Authorisation and Restriction of Chemicals (REACH) (O.J. L 142, 31.5.2008, p. 1)

(b) O.J. L 147, 9.6.1975, p. 40.

⁽¹³⁾ Ammonium nitrate (5,000/10,000): fertilisers capable of self-sustaining decomposition.

This applies to ammonium nitrate based compound/composite fertilisers (compound/composite fertilisers contain ammonium nitrate with phosphate and/or potash) which are capable of self-sustaining decomposition according to the UN Trough Test (see UN Manual of Tests and Criteria, Part III, subsection 38.2), and in which the nitrogen content as a result of ammonium nitrate is—

- (a) between 15.75%(a) and 24.5%(b) by weight, and either with not more than 0.4% total combustible/organic materials or which fulfil the requirements of Annex III-2 to Regulation (EC) No 2003/2003 of the European Parliament and of the Council of 13 October 2003 relating to fertilisers(c);
- (b) 15.75% by weight or less and unrestricted combustible materials.

⁽¹⁴⁾ Ammonium nitrate (1,250/5,000): fertiliser grade.

This applies to straight ammonium nitrate based fertilisers and to ammonium nitrate-based compound/composite fertilisers which fulfil the requirements of Annex III-2 to Regulation (EC) No 2003/2003 and in which the nitrogen content as a result of ammonium nitrate is—

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

⁽¹⁵⁾ Ammonium nitrate (350/2,500): technical grade.

This applies to ammonium nitrate and mixtures of ammonium nitrate in which the nitrogen content as a result of the ammonium nitrate is—

- (a) between 24.5% and 28% by weight, and which contain not more than 0.4% combustible substances;
- (b) more than 28% by weight, and which contain not more than 0.2% combustible substances.

It also applies to aqueous ammonium nitrate solutions in which the concentration of ammonium nitrate is more than 80% by weight.

⁽¹⁶⁾ Ammonium nitrate (10/50): ‘off-specs’ material and fertilisers not fulfilling the detonation test.

This applies to—

- (a) material rejected during the manufacturing process and to ammonium nitrate and mixtures of ammonium nitrate, straight ammonium nitrate based fertilisers and ammonium nitrate based compound/composite fertilisers referred to in Notes 14 and 15, 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 14 and 15;
- (b) fertilisers referred to in Note 13(a), and Note 14(a) to this Schedule which do not fulfil the requirements of Annex III-2 to Regulation (EC) No 2003/2003.

⁽¹⁷⁾ Potassium nitrate (5,000/10,000).

This applies to those composite potassium nitrate based fertilisers (in prilled/granular form) which have the same hazardous properties as pure potassium nitrate.

⁽¹⁸⁾ Potassium nitrate (1,250/5,000).

This applies to those composite potassium nitrate based fertilisers (in crystalline form) which have the same hazardous properties as pure potassium nitrate.

⁽¹⁹⁾ Upgraded biogas.

For the purpose of the implementation of these Regulations, upgraded biogas may be classified under entry 18 of Part 2 of Schedule 1 where it has been processed in accordance with applicable standards for purified and upgraded biogas ensuring a quality equivalent to that of natural gas, including the content of Methane, and which has a maximum of 1% Oxygen.

⁽²⁰⁾ Polychlorodibenzofurans and polychlorodibenzodioxins.

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

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

(c) O.J. L 304, 21.11.2003, p. 1.

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

The quantities of polychlorodibenzofurans and polychlorodibenzodioxins are calculated using the factors in Table 1—

Table 1
WHO 2005 TEF

2,3,7,8-TCDD	1	2,3,7,8-TCDF	0.1
1,2,3,7,8-PeCDD	1	2,3,4,7,8-PeCDF	0.3
		1,2,3,7,8-PeCDF	0.03
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
OCDD	0.0003	1,2,3,4,6,7,8-HpCDF	0.01
		1,2,3,4,7,8,9-HpCDF	0.01
		OCDF	0.0003

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

Reference — Van den Berg et al: The 2005 World Health Organisation Re-evaluation of Human and Mammalian Toxic Equivalency Factors for Dioxins and Dioxin like Compounds.

⁽¹⁾ In cases where this dangerous substance falls within category P5a Flammable liquids or P5b Flammable liquids, then for the purposes of these Regulations the lowest qualifying quantities apply.

⁽²⁾ The CAS number is shown only for indication.

SCHEDULE 2

INFORMATION REFERRED TO IN REGULATION 7 ON THE SAFETY MANAGEMENT SYSTEM AND THE ORGANISATION OF THE ESTABLISHMENT WITH A VIEW TO THE PREVENTION OF MAJOR ACCIDENTS

For the purpose of implementing the operator's safety management system, account must be taken of the following elements—

1. The safety management system is to be proportionate to the hazards, industrial activities and complexity of the organisation in the establishment and be based on assessment of the risks; it should include the part of the general management system which includes the organisational structure, responsibilities, practices, procedures, processes and resources for determining and implementing the major accident prevention policy.

2. The following issues shall be addressed by the safety management system—

- (a) organisation and personnel— the roles and responsibilities of personnel involved in the management of major hazards at all levels in the organisation, together with the measures taken to raise awareness of the need for continuous improvement. The identification of training needs of such personnel and the provision of the training so identified. The involvement of employees and of subcontracted personnel working in the establishment which are important from the point of view of safety;

- (b) identification and evaluation of major hazards— adoption and implementation of procedures for systematically identifying major hazards arising from normal and abnormal operation including subcontracted activities where applicable and the assessment of their likelihood and severity;
- (c) operational control— adoption and implementation of procedures and instructions for safe operation, including maintenance, of plant, processes and equipment, and for alarm management and temporary stoppages; taking into account available information on best practices for monitoring and control, with a view to reducing the risk of system failure; management and control of the risks associated with ageing equipment installed in the establishment and corrosion; inventory of the establishment's equipment, strategy and methodology for monitoring and control of the condition of the equipment; appropriate follow up actions and any necessary counter-measures;
- (d) management of change— adoption and implementation of procedures for planning modifications to, or the design of new installations, processes or storage facilities;
- (e) planning for emergencies— adoption and implementation of procedures to identify foreseeable emergencies by systematic analysis, to prepare, test and review emergency plans to respond to such emergencies and to provide specific training for the staff concerned. Such training is to be given to all personnel working in the establishment, including relevant subcontracted personnel;
- (f) monitoring performance— adoption and implementation of procedures for the ongoing assessment of compliance with the objectives set by the operator's major accident prevention policy and safety management system, and the mechanisms for investigation and taking corrective action in case of non-compliance. The procedures are to cover the operator's system for reporting major accidents or 'near misses', particularly those involving failure of protective measures, and their investigation and follow-up on the basis of lessons learnt. The procedures could also include performance indicators such as safety performance indicators (SPIs) and/or other relevant indicators; and
- (g) audit and review— adoption and implementation of procedures for periodic systematic assessment of the major accident prevention policy and the effectiveness and suitability of the safety management system; the documented review of performance of the policy and safety management system and its updating by senior management, including consideration and incorporation of necessary changes indicated by the audit and review.

SCHEDULE 3

MINIMUM DATA AND INFORMATION TO BE CONSIDERED IN THE SAFETY REPORT REFERRED TO IN REGULATION 9

1. Information on the management system and on the organisation of the establishment with a view to major accident prevention.

This information must contain the elements indicated in Schedule 2.

2. Presentation of the environment of the establishment—

- (a) description of the establishment and its environment including the geographical location, meteorological, geological, hydrographic conditions and, if necessary, its history;
- (b) identification of installations and other activities of the establishment which could present a major accident hazard;
- (c) on the basis of available information, identification of neighbouring establishments, as well as sites that fall outside the scope of these Regulations, areas and developments that could be the source of, or increase the risk or consequences of a major accident and of domino effects; and
- (d) description of areas where a major accident may occur.

3. Description of the installation—

- (a) description of the main activities and products of the parts of the establishment which are important from the point of view of safety, sources of major accident risks and conditions under which such a major accident could happen, together with a description of proposed preventive measures;
- (b) description of processes, in particular the operating methods; where applicable, taking into account available information on best practices;
- (c) description of dangerous substances, including their classification under the CLP Regulation—
 - (i) inventory of dangerous substances including;
 - (aa) the identification of dangerous substances: chemical name, CAS number, name according to IUPAC nomenclature;
 - (bb) the maximum quantity of dangerous substances present or likely to be present;
 - (ii) physical, chemical, toxicological characteristics and indication of the hazards, both immediate and delayed for human health and the environment;
 - (iii) physical and chemical behaviour under normal conditions of use or under foreseeable accidental conditions.

4. Identification and accidental risks analysis and prevention methods—

- (a) detailed description of the possible major accident scenarios and their probability or the conditions under which they occur including a summary of the events which may play a role in triggering each of these scenarios, the causes being internal or external to the installation; including in particular—
 - (i) operational causes;
 - (ii) external causes, such as those related to domino effects, sites that fall outside the scope of these Regulations, areas and developments that could be the source of, or increase the risk or consequences of a major accident;
 - (iii) natural causes, for example earthquakes or floods;
- (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 likely to be affected by such accidents arising from the establishment;
- (c) review of past accidents and incidents with the same substances and processes used, consideration of lessons learned from these, and explicit reference to specific measures taken to prevent such accidents;
- (d) description of technical parameters and equipment used for the safety of installations.

5. Measures of protection and intervention to limit the consequences of a major accident—

- (a) description of the equipment installed in the plant to limit the consequences of major accidents for human health and environment, including for example detection/protection systems, technical devices for limiting the size of accidental releases, including water spray; vapour screens; emergency catch pots or collection vessels; shut-off valves; inerting systems; fire water retention;
- (b) organisation of alert and intervention;
- (c) description of mobilisable resources, internal or external; and
- (d) description of any technical and non-technical measures relevant for the reduction of the impact of a major accident.

SCHEDULE 4

INFORMATION TO BE INCLUDED IN THE EMERGENCY PLANS REFERRED TO IN REGULATIONS 11 AND 12

1. Internal emergency plans—

- (a) names or positions of persons authorised to set emergency procedures in motion and the person in charge of and co-ordinating the on site mitigatory action;
- (b) name or position of the person with responsibility for liaising with the authority responsible for the external emergency plan;
- (c) for foreseeable conditions or events which could be significant in bringing about a major accident, a description of the action which should be taken to control the conditions or events and to limit their consequences, including a description of the safety equipment and the resources available;
- (d) arrangements for limiting the risks to persons on site including how warnings are to be given and the actions persons are expected to take on receipt of a warning;
- (e) arrangements for providing early warning of the incident to the authority responsible for setting the external emergency plan in motion, the type of information which should be contained in an initial warning and the arrangements for the provision of more detailed information as it becomes available;
- (f) where necessary, arrangements for training staff in the duties they will be expected to perform and, as appropriate, co-ordinating this with off site emergency services; and
- (g) arrangements for providing assistance with off site mitigatory action.

2. External emergency plans—

- (a) names or positions of persons authorised to set emergency procedures in motion and of persons authorised to take charge of and co-ordinate off-site action;
- (b) arrangements for receiving early warning of incidents, and alert and call-out procedures;
- (c) arrangements for co-ordinating resources necessary to implement the external emergency plan;
- (d) arrangements for providing assistance with on-site mitigatory action;
- (e) arrangements for off-site mitigatory action, including responses to major accident scenarios as set out in the safety report and considering possible domino effects, including those having an impact on the environment;
- (f) arrangements for providing the public and any neighbouring establishments or sites that fall outside the scope of these Regulations in accordance with regulation 23 with specific information relating to the accident and the behaviour which should be adopted; and
- (g) arrangements for the provision of information to the emergency services of other Member States in the event of a major accident with possible transboundary consequences.

SCHEDULE 5

CRITERIA FOR THE NOTIFICATION OF A MAJOR ACCIDENT TO THE EUROPEAN COMMISSION AS PROVIDED FOR IN REGULATION 26

PART 1

Any major accident covered by paragraph 1 below or having at least one of the consequences described in paragraphs 2, 3, 4 and 5 below must be notified to the European Commission.

1. Dangerous substances involved—

Any fire or explosion or accidental discharge of a dangerous substance involving a quantity of at least 5% of the qualifying quantity laid down in Column 3 of Part 1 or in Column 3 of Part 2 of Schedule 1.

2. Injury to persons and damage to property—

- (a) a death;
- (b) six persons injured within the establishment and hospitalised for at least 24 hours;
- (c) one person outside the establishment hospitalised for at least 24 hours;
- (d) dwelling(s) outside the establishment damaged and unusable as a result of the accident;
- (e) the evacuation or confinement of persons for more than 2 hours (persons × hours): the value is at least 500; or
- (f) the interruption of drinking water, electricity, gas or telephone services for more than 2 hours (persons × hours): the value is at least 1,000.

3. Immediate damage to the environment—

- (a) permanent or long-term damage to terrestrial habitats—
 - (i) 0.5 hectares or more of a habitat of environmental or conservation importance protected by legislation;
 - (ii) 10 or more hectares of more widespread habitat, including agricultural land;
- (b) significant or long-term damage to freshwater and marine habitats—
 - (i) 10 km or more of river or canal;
 - (ii) 1 hectare or more of a lake or pond;
 - (iii) 2 hectares or more of delta;
 - (iv) 2 hectares or more of a coastline or open sea;
- (c) significant damage to an aquifer or underground water—
1 hectare or more.

4. Damage to property—

- (a) damage to property in the establishment: at least EUR 2,000,000;
- (b) damage to property outside the establishment: at least EUR 500,000.

5. Cross-border damage—

Any major accident directly involving a dangerous substance giving rise to effects outside the territory of the Member State concerned.

PART 2

Accidents or 'near misses' which Member States regard as being of particular technical interest for preventing major accidents and limiting their consequences and which do not meet the quantitative criteria above should be notified to the European Commission.