

Application of the Control of Major Accident Hazards Regulations 2015 (COMAH) to transport and directly related temporary intermediate storage activities and transport in pipelines

Regulation 3 of COMAH concerning scope of application was amended on 6 April 2017 by Regulation 5 of The Health and Safety (Miscellaneous Amendments and Revocations) Regulations 2017. This changed application to the transport of dangerous substances and directly related temporary intermediate storage activities, and transport of dangerous substances in pipelines.

Regulation 3 of the COMAH Regulations 2015 now states;

Reg 3 (2) These Regulations do not apply to any of the following—
[.....]

(ca) the transport of dangerous substances in pipelines, including associated apparatus, except where that activity takes place at a site which is an establishment despite that activity;

(cb) the transport of dangerous substances and directly related intermediate temporary storage by road, rail, internal waterways, sea or air, including loading and unloading and transport to and from another means of transport at docks, wharves or marshalling yards, except where that activity takes place at a site which is an establishment despite that activity;”

This amendment ensures the full transposition of the intention of Article 2(2)(c) and (d) of the Seveso III Directive.

It means that a site can not come into scope of COMAH solely on the basis of the presence of dangerous substances for the activities described. However, if such activities take place on a site that is already a COMAH establishment for other reasons, then the total inventory must be taken into consideration when determining application. This means that a site could have quantities of dangerous substances above the Lower Tier thresholds in storage or processing activities, but when the inventories associated with transport activities are taken into consideration the site comes into scope at Upper Tier.

Operators who think they may be affected by this amendment should open discussions with their COMAH Intervention Manager as soon as possible to discuss their particular circumstances.

Specific guidance regarding transport and directly related intermediate temporary storage

There is no definition in the Regulations of “transport or directly related intermediate temporary storage”. Transport should be taken to mean the movement of dangerous substances by any means, other than by pipelines, between a consignor and a consignee. Directly related intermediate temporary storage is storage required as part of a transport activity and that takes place for no longer than is necessary as part of the transport activity. There is no timescale attached to directly related intermediate temporary storage.

Directly related intermediate temporary storage can include, but is not limited to, driver rest breaks and daily/weekly rest periods, time required to transfer a load from one form of transport to another, time require to amalgamate or break down loads of packaged goods and waiting time whilst transferring from one mode of transport to another.

Directly related intermediate temporary storage does not include the storage of dangerous substances once they have reached a destination point or consignee however short the duration of their storage, or dangerous substances that have been consigned but not yet begun a journey. It also does not include activity to decant /dilute or otherwise alter the dangerous substances from the form that they arrive.

The following examples illustrate the principles above and what is transport, what is storage, what is directly related intermediate temporary storage and what these can mean if they take place at sites that are and aren't already in scope.

Example 1

A site is part of a delivery network for a distribution company. Dangerous substances arrive and are unloaded from one lorry onto another for the purposes of onward delivery to a customer. The site does not decant / dilute or otherwise alter the dangerous substances from the condition from which they arrive. The dangerous substances have a customer in all instances and although they may wait at the site for short periods of time have not reached their final destination. Dangerous substances at or above COMAH thresholds are not present on this site for any other purposes.

This site is not in scope of COMAH. The only dangerous substances present are in the transport chain between the consignor and consignee with any periods of waiting being directly related intermediate temporary storage.

Example 2

A site is storing dangerous substances, these substances may be awaiting purchase, onward delivery to a final customer or drawing off by a customer as dictated by business need. The site does not unpack / repack / dilute or otherwise alter the dangerous substances from the condition from which they arrive.

This site is in scope of COMAH if the quantities exceed threshold levels. The activity is not transport or directly related intermediate temporary storage but storage. The dangerous substances have arrived at an end point in their journey, this is not altered by the fact that the dangerous substances may only be present for a short period of time.)

Example 3

The site described in Example 1 begins to offer warehousing services in addition to their distribution role. Dangerous substances are stored pending purchase or onward delivery, activities such as unpacking, decanting and dilution may or may not be carried out.

The new activity is storage, if the inventory stored is in excess of threshold quantities then the site is in scope. If COMAH applies then the site should take reasonable steps to determine the inventory associated with the transport activity and take this into consideration when determining which tier the Regulations apply at.

Example 4

A lorry carrying dangerous substances breaks its journey at a site where dangerous substances are not otherwise present at or above COMAH thresholds. This is a regular part of a delivery route with prior agreement in place and may include payment. No part of the load is being delivered to the site, the presence is solely for the purpose of breaking a journey

This parking location is not in scope of COMAH. The only dangerous substances present are in the transport chain between the consignor and consignee with a rest stop being directly related intermediate temporary storage. Where appropriate the driver must consider the CDG Regulations concerning the parking and supervision of vehicles carrying dangerous substances.

Example 5

A lorry carrying dangerous substances breaks its journey for a significant period of time at a site that is in scope of COMAH. This is a regular part of a delivery route with prior agreement in place and may include payment or reciprocal arrangements.

The site is already in scope of COMAH and should take reasonable steps to determine the inventory associated with the transport activity and take this into consideration when determining which tier the Regulations apply at.

Specific guidance regarding transport of dangerous substances in pipelines

In Reg 3(2)(ca) the reference to 'associated apparatus' should be familiar to regulators and operators. It is intended to ensure that any dangerous substances in equipment necessary to facilitate transport in pipelines is excluded from scope. This clause does not mean that the entire inventory of dangerous substances in a pipeline needs to be taken into consideration, only that which is within the boundary of a site that is otherwise a COMAH establishment.

Q. A site is fed by a 5km pipeline under the control of the operator of the establishment. How much of this inventory needs to be included when determining application of COMAH?

Only the inventory of the pipeline within the establishment boundary needs to be included. Pipelines and associated apparatus transporting hazardous substances outside of the establishment are regulated by other legislation.