

DRAFT

**STATUTORY INSTRUMENTS**

**S.I. No. of 2009**

**Chemicals (Control of Major Accident Hazards Involving Dangerous Substances)  
Regulations 2009**

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## **Chemicals (Control of Major Accident Hazards Involving Dangerous Substances) Regulations 2009**

I, Dara Calleary, T.D., Minister of State at the Department of Enterprise, Trade and Employment, with the consent of the Minister for the Environment, Heritage and Local Government, the Minister for Health and Children, the Minister for Justice, Equality and Law Reform and the Minister for Transport, in exercise of the powers conferred on me by section 5(2)(b) of the Chemicals Act 2008 (No.13 of 2008) and the Enterprise, Trade and Employment (Delegation of Ministerial Functions) (No. 2) Order 2009 (S.I. No. 249 of 2009), and for the purpose of giving effect to Council Directive 96/82/EC of 9 December 1996<sup>1</sup> as amended by Directive 2003/105/EC of the European Parliament and of the Council of 16 December 2003<sup>2</sup>, hereby make the following regulations:

### Part 1

#### ***Preliminary and General***

##### **Citation.**

1. These Regulations may be cited as the Chemicals (Control of Major Accident Hazards Involving Dangerous Substances) Regulations 2009.

##### **Interpretation.**

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

"dangerous substance" means a substance, mixture or preparation—

(a) listed in Schedule 1 Part 1, or

(b) fulfilling the criteria laid down in Schedule 1 Part 2,

and present as a raw material, product, by-product, residue or intermediate, including those substances which it is reasonable to suppose may be generated in the event of an accident;

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<sup>1</sup> O.J. L 10, 14.1.1997, p. 13

<sup>2</sup> O.J. L 345, 31.12.2003, p. 97

"Directive" means Council Directive 96/82/EC of 9 December 1996<sup>1</sup>, on the control of major accident hazards involving dangerous substances as amended by Directive 2003/105/EC of the European Parliament and the Council of 16 December 2003;<sup>2</sup>

"establishment" means–

(a) the whole area–

- (i) under the control of an operator,
- (ii) where a security fence exists, within the perimeter of the security fence footprint where dangerous substances are stored or processed,
- (iii) where such substances are present at or above the qualifying quantities specified in columns 2 and 3 of the Tables entitled "Part 1 Named substances" and "Part 2 Categories of substances and preparations not specifically named in Part 1" and set out in Schedule 1, in one or more installations,

and for this purpose two or more areas which contain installations under the control of the same operator and separated only by a road, railway or inland waterway shall be treated as one whole area, and

(b) includes an establishment –

- (i) which began construction or operation prior to or after the commencement of these Regulations,
- (ii) which is modified after the commencement of these Regulations making it subject to Parts 3 and 4, and
- (iii) notified under Regulation 8 after the coming into force of these regulations;

"external emergency plan" has the meaning assigned to it by Regulation 17;

"functions", in relation to competent authorities, includes powers and duties and a reference to the performance of a function includes, with respect to powers, a reference to the exercise of a power;

“harbour authority” means a harbour authority within the meaning of the Harbours Act 1946 (No. 9 of 1946), or a company established pursuant to Section 7 of the Harbours Act 1996 (No. 11 of 1996), or a company established pursuant to Section 43 of the Harbours Act 1996 (No. 11 of 1996), as amended by the Harbours (Amendment) Act 2000 (No. 21 of 2000);

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

"installation" means a unit within an establishment in which dangerous substances are, or are intended to be, produced, used, handled or stored, and includes—

(a) equipment, structures, pipework, machinery and tools,

(b) private railway sidings, docks and unloading quays serving the installation,  
and

(c) jetties, warehouses or similar structures, whether floating or not,

which are necessary for the operation of the installation;

"internal emergency plan" shall be construed in accordance with Regulation 14;

"local authority" means—

(a) in the case of a city referred to in Part 2 of Schedule 5 to the Local Government Act 2001 (No. 37 of 2001) a city council,

and

(b) in the case of a county referred to in Part 1 of that Schedule and a town or borough referred to in Parts 1 and 2 of Schedule 6 to that Act of 2001, a county council;

"lower tier site" means an establishment where a dangerous substance listed in column 1 of Parts 1 or 2 of Schedule 1 is present in a quantity equal to or exceeding the quantity listed in the entry for that substance in column 2 of those Parts;

"major accident" means an occurrence such as a major emission, fire or explosion, involving one or more dangerous substances, resulting from uncontrolled developments in the course of the operation of any establishment, leading to a serious danger to—

(a) human health,

(b) the environment, or

(c) both human health and the environment,

whether immediate or delayed, inside or outside the establishment;

"notifiable incident" has the meaning given to it by Regulation 23;

"notification" has the meaning given to it by Regulation 8;

"operator" means any person who operates or holds, or proposes to operate or hold an establishment or installation or has been given, by or under any enactment, decisive economic power in the technical operation thereof;

"planning authority" has the meaning given to it by the Planning and Development Act 2000;

"presence of dangerous substances" includes

- (i) actual presence of dangerous substances in the establishment,
- (ii) anticipated presence of dangerous substances in the establishment, and
- (iii) the anticipated presence of dangerous substances in the establishment, which it is believed may be generated during loss of control of an industrial chemical process, in quantities equal to or in excess of the thresholds in Parts 1 and 2 of Schedule 1;

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

"safety report" has the meaning given to it by Regulation 12;

"specified area" means the area which is liable to be affected by a major accident at an establishment;

"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 site" means an establishment where a dangerous substance listed in column 1 of Parts 1 or 2 of Schedule 1 is present in a quantity equal to or exceeding the quantity listed in the entry for that substance in column 3 of those Parts;

(2) In determining the presence of dangerous substances the columns in Parts 1 and 2 of Schedule 1 shall be applied in accordance with the requirements set out in that Schedule and the notes set out in each of the respective Parts to the Schedule.

(3) In these Regulations any reference to the beginning of construction or operation of an establishment shall be construed, subject to paragraph (4), as a reference to the beginning of construction or operation, as the case may be, of an installation in the establishment, or where there is or is to be more than one installation in the establishment, the one whose construction or operation, as the case may be, is first begun.

(4) A word or expression that is used in these Regulations and is also used in the Directive has, unless the contrary intention appears, the same meaning in these Regulations as it has in the Directive.

**Application.**

3. (1) Subject to paragraph (2), these Regulations shall apply to—
- (a) an upper tier site,
  - (b) except for Parts 3 and 4, a lower tier site.

(2) These Regulations shall not apply to—

(a) any property occupied by the Defence Forces and any land or premises referred to in section 268(1) of the Defence Act 1954 (No. 7 of 1954);

(b) hazards created by ionising radiation;

(c) the occurrence outside an establishment of—

(i) the transport of dangerous substances by road, rail, internal waterways, sea or air;

(ii) intermediate temporary storage associated with a subparagraph (i) activity;

(iii) the loading or unloading of dangerous substances at docks, wharves or marshalling yards;

(iv) the transport of dangerous substances to and from another means of transport at docks, wharves or marshalling yards;

(v) the transport of dangerous substances in pipelines and pumping stations;

(d) the exploitation (exploration, extraction and processing) of minerals in mines, quarries or by means of boreholes, with the exception of chemical and thermal processing operations and storage related to those operations which involve dangerous substances;

(e) the offshore exploration and exploitation of minerals, including hydrocarbons;

(f) waste land-fill sites, with the exception of operational tailings disposal facilities, including tailing ponds or dams, containing dangerous substances as defined in Schedule 1, in particular when used in connection with the chemical and thermal processing of minerals.

**Competent authorities.**

4. (1) For the purpose of these Regulations each of the following shall be a competent authority—

- (a) the Authority, except for the purposes of Regulations 5, 17 (2), (3), (5), 18, 19 and 20 (1)
- (b) a local authority for the purposes of Regulations 5, 17 (2), (3), (5), 18, 19 and 20 (1)
- (c) an Garda Síochána, for the purposes of Regulations 5, 17 (2), (3), (5), 18, 19 and 20 (1)
- (d) the Health Service Executive, for the purposes of Regulations 5, 17 (2), (3), (5) 18, 19 and 20 (1), and
- (e) a Harbour Authority, for the purposes of Regulations 5, 17 (2), (3), (5), 18, 19 and 20 (1).

(2) Subject to paragraph (3), Section 8(4)(c) of the Act shall apply to the competent authorities referred to under paragraph (1) (b), (c), (d) and (e).

(3) The competent authorities referred to under paragraph 1(c), (d) and (e) shall provide the reports required by Section 8(4)(c)(i) of the Act to the relevant local authority which shall coordinate them with their own report and furnish the coordinated report to the Authority.

(4) The provisions of the Act as they apply to competent authorities shall apply to competent authorities for the purposes of their functions under these regulations, except that Part 4, other than section 13, shall not apply to a competent authority referred to in paragraph 1(b), (c), (d) and (e).

**Authorised officers of competent authorities.**

5. (1) A competent authority may authorise in writing, either generally or specifically, any of its officers to do either or both of the following—

- (a) enter at all reasonable times any establishment within its functional area, and
- (b) require and receive from the operator concerned such information as that authority may reasonably require for the purpose of preparing or amending the external emergency plan.

(2) An authorised officer shall be furnished with a warrant of the officer's appointment and, when exercising any power conferred on an authorised officer under these Regulations, shall, if requested by a person affected, produce the warrant of his or her appointment or a copy of it to that person and a form of personal identification.

**Advice on Land Use Planning.**

6. For the purpose of ensuring that technical advice on the risks arising from an establishment is available to a planning authority or An Bord Pleanála, either on a case by case basis or on a generic basis, when decisions are taken relating to—

- (a) the siting of new establishments,
- (b) the modification of an existing establishment to which Article 10 of the Directive applies, or
- (c) proposed development in the vicinity of an existing establishment

the Authority may, and shall if requested to do so by a planning authority or An Bord Pleanála and within the time frame requested, which shall at least be a period of 6 weeks after receipt by the Authority of all necessary information, provide advice on land use planning to a planning authority or to An Bord Pleanála, which advice shall be taken into account as appropriate, by that planning authority or An Bord Pleanála.

**Offences.**

7. (1) The provisions of Parts 2, 3, and 5 of these Regulations are penal.

(2) A person who contravenes any of the provisions of Parts 2, 3 or 5 of these Regulations shall be guilty of an offence.

Part 2

***Major Accident Hazards – provisions applying to upper tier and lower tier sites***

**Notification of establishment by operator.**

8. (1) It shall be the duty of an operator to—

- (a) send to the Authority a notification in writing containing the information set out in Schedule 2,

- (b) immediately inform the Authority in writing in the event of—
  - (i) any significant increase in the quantity, or a significant change in the nature or physical form, of a dangerous substance present, as indicated in the notification provided pursuant to paragraph (1), or any significant change in the processes employing it,
  - (ii) modification of an establishment or an installation which could have significant repercussions on major accident hazards,
  - (iii) permanent closure of the installation, or
  - (iv) any proposal to do any of (i) – (iii),

and

- (c) submit in writing to the planning authority in whose functional area the establishment is situated and to any other planning authority whose functional area may be affected by a major accident at the establishment-
  - (i) confirmation that the establishment is subject to these Regulations, and
  - (ii) the details outlined in paragraphs (a), (d), (e), (g) and (i) of Schedule 2.

(2) It shall be the duty of an operator of a proposed establishment to send to the Authority a notification in writing containing the information set out in Schedule 2 at least 6 months before the start of construction of the establishment, or within such shorter period as the Authority may agree in writing.

**Prevention and limitation of consequences of major accidents by operator.**

9. (1) It shall be the duty of an operator to take all necessary measures to—
- (a) prevent major accidents occurring, and
  - (b) limit the consequences which any such major accidents could cause to human health and the environment.

(2) Without prejudice to the generality of paragraph (1), the matters in respect of which the necessary measures are to be taken by the operator shall include—

- (a) the identification of all major accident hazards in the establishment including an assessment of the extent and severity of the consequences which such accidents could cause;
- (b) the provision and maintenance of installations and systems of work and of the means of entry to and exit from the establishment or any part of it that, so far as is reasonably practicable, are without risk for human health and the environment;
- (c) the making of arrangements to ensure that the use, handling, storage and transport of dangerous substances in the establishment limit risk to human health and the environment;
- (d) the provision of such information, instruction, equipment, training and supervision as is necessary to provide for the occupational safety and health of the persons working in the establishment;
- (e) the use of the best practicable means—
  - (i) to prevent a major emission into the environment from any part of the establishment of dangerous substances resulting from uncontrolled developments in that establishment, and
  - (ii) for rendering harmless and inoffensive such substances as may be so emitted.

(3) An operator on being notified in writing by the Authority that the establishment has been identified as part of a group of establishments where the likelihood and the possibility or consequences of a major accident may be increased because of the location and the proximity of such establishments, and their inventories of dangerous substances, shall—

(a) provide suitable information in an appropriate manner about the establishment to each other establishment in the group to enable them to take account of the nature and extent of the major accident hazard in their major accident prevention policy documents, safety reports and internal emergency plans,

(b) take account, in compliance with subparagraph (3)(a), of information provided to him or her by each establishment in the group, and

(c) co-operate with those establishments to enable them comply with Regulations 14 and 15.

**Preparation of major accident prevention policy document by operator.**

10. (1) It shall be the duty of an operator to—

(a) prepare, or cause to be prepared, a statement in writing setting out the manner in which major accidents are to be prevented (in these regulations referred to as a “major accident prevention policy document”), and

(b) implement the policy set out in the major accident prevention policy document.

(2) It shall be the duty of an operator to prepare a major accident prevention policy document prior to commencement of operation.

(3) In the event of a modification of an establishment or any part thereof including any modification to an installation, storage facility, process or nature or quantity of dangerous substances which could have significant repercussions on major accident hazards, the operator shall review and, where necessary revise, the major accident prevention policy document prior to the commencement of the modification.

(4) The major accident prevention policy shall—

(a) be designed to guarantee a high level of protection for human health and the environment by appropriate means, structures and management systems,

(b) take account of the principles set out in Schedule 3, and

(c) take account of section 20 of the Act of 2005.

### Part 3

#### ***Major Accident Hazards – additional provisions applying to upper tier sites***

##### **Duty of operator not to commence operation.**

- 11 An operator of an upper-tier site shall not commence operation unless-
- (a) the safety report, in compliance with Regulation 12, has been prepared and is adequate to ensure compliance with these Regulations,
  - (b) the Authority, in consultation as appropriate with the Environmental Protection Agency, has communicated satisfactory conclusions as regards the safety report,
  - (c) there is an adequate internal emergency plan in place, in compliance with Regulation 14, and
  - (d) an external emergency plan has been prepared by the relevant competent authorities, in compliance with Regulation 17.

##### **Preparation of safety report by operator.**

12. (1) It shall be the duty of an operator of an upper-tier site to prepare and submit in triplicate to the Authority at least 6 months before the proposed commencement of operation, a written safety report.

(2) The safety report shall—

- (a) contain at least the data and information set out in Schedule 4,
- (b) name the relevant organisations involved in the drawing up of the report,
- (c) contain an up to date inventory of the dangerous substances present in the establishment, and
- (d) include the major accident prevention policy document required by Regulation 10.

(3) It shall be the duty of an operator to make available the safety report or any revised safety report under Regulation 13 to any member of the public who requests it.

(4) Notwithstanding paragraph (3), an operator need not make available such parts of a safety report as the Authority agrees in writing may be omitted for the purposes of this Regulation, and which parts relate to matters of industrial, commercial or personal confidentiality, public security or national defence, and in such event the report as so amended shall be furnished to the Authority, and the operator shall make available such amended report to the public in lieu of the safety report prepared pursuant to this Regulation and Regulation 13.

(5) Where it is demonstrated by an operator to the satisfaction of the Authority that particular substances to which these Regulations apply which are present at the establishment, or any part thereof, are in a state incapable of creating a major accident hazard, then the Authority may, in writing and in accordance with the criteria set out in Schedule 5, limit the information required in a safety report to those matters which are relevant to the prevention of residual major accident hazards and the limitation of their consequences for human health and the environment.

**Review and revision of safety report by operator.**

13. (1) It shall be the duty of the operator of every upper tier site—

(a) once in every 5 years from the date of receiving the Authority's satisfactory conclusions on the adequacy of a safety report first sent to the Authority in compliance with Regulation 12,

(b) where a modification is proposed to –

- (i) an establishment,
  - (ii) an installation,
  - (iii) a storage facility
  - (iv) a process or procedure carried on at (i), (ii) or (iii), or
  - (v) the nature or quantity of dangerous substances present
- and that modification could have significant repercussions as respects major accidents, or

(c) where justified by new facts or circumstances or in order to take account of any new technical knowledge about safety matters or any developments in knowledge concerning the assessment of hazards—

(i) on the initiative of the operator, or

(ii) at the request of the Authority,

to—

(I) review and where necessary revise, the most recent safety report prepared and submitted in respect of the site in compliance with Regulation 12,

(II) submit the revised details without delay to the Authority in a manner which, in the opinion of the Authority, can be easily integrated into such report, or

(III) submit a revised report.

(2) Where any review under paragraph (1) does not result in a revision of the safety report being required the operator shall inform the Authority of this in writing immediately.

(3) Every submission by an operator to the Authority pursuant to paragraph (1)(b) shall be submitted by him or her before the modification is implemented.

**Preparation of internal emergency plan by operator.**

14. It shall be the duty of an operator of an upper-tier site—

- (a) to prepare an internal emergency plan,
- (b) in preparing or revising the internal emergency plan, to consult with-
  - (i) the personnel working inside the establishment, including long-term relevant subcontracted personnel,
  - (ii) the local authority, in whose functional area the establishment is situated,
  - (iii) an Garda Síochána,
  - (iv) the Health Services Executive,
  - (v) the harbour authority, where the establishment is situated in the functional area of that harbour authority, and

- (vi) such other persons as appear to him or her to be appropriate,
- (c) in preparing the internal emergency plan, to-
  - (i) comply with the objectives laid down in Part 1 of Schedule 6, and
  - (ii) include the data and information set out in paragraph 1 of Part 2 of Schedule 6.
- (d) to review periodically and as often as the circumstances require it but in any event at intervals not exceeding 3 years, and where necessary, revise and update the internal emergency plan, taking account of—
  - (i) changes occurring in the establishment concerned,
  - (ii) relevant changes in the emergency services concerned,
  - (iii) new technical knowledge, and
  - (iv) knowledge concerning the response to major accidents, and
- (e) to ensure that the plan or the revised plan is tested as part of the procedure under paragraph (d), and
- (f) to put the internal emergency plan into effect immediately when –
  - (i) a major accident occurs, or
  - (ii) an uncontrolled event occurs which by its nature could reasonably be expected to lead to a major accident.

**External emergency plan, provision of information by operator.**

15. (1) It shall be the duty of an operator of an upper-tier site, for the purpose of enabling a competent authority, to prepare or amend an external emergency plan in relation to an establishment, to provide that competent authority with such information as may reasonably be required for that purpose, including the nature, extent and likely effects inside and outside the relevant establishment of possible major accidents and the information shall be supplied in such form and within such period as may be notified to the operator by the competent authority to allow the competent authorities to meet their obligations pursuant to Regulation 17.

(2) Establishments or groups of establishments identified by the Authority under Regulation 9(3) shall co-operate in supplying information to the competent authorities for the preparation of external emergency plans.

**Specified area, duties of operator.**

16. (1) It shall be the duty of an operator of every upper tier site to –
- (a) determine the specified area in relation to the establishment with the agreement of the Authority, provided that in the absence of agreement the specified area will be determined by the Authority.
  - (b) inform -
    - (i) persons other than persons working at the establishment, and
    - (ii) institutions or organisations serving the public (such as schools and hospitals)in the specified area on safety measures and on the correct behaviour which should be adopted in the event of an accident,
  - (c) make the information referred to in subparagraph (b) available to any member of the public who requests it, and
  - (d) in preparing the information referred to in paragraph (b) ensure that–
    - (i) documentation includes the information set out in Schedule 7, and
    - (ii) consideration is given to any relevant provisions in the external emergency plan.
- (2) An operator shall ensure that–
- (a) the information referred to in paragraph (1)(b) is supplied to the persons, institutions or organisations referred to in that paragraph in the most appropriate form, without any such person, institution or organisation having to request it,
  - (b) the supply of the information is-
    - (i) repeated at least every 5 years,

- (ii) in any event when there is any material change in the information provided,
- (c) the information referred to in paragraph (1)(b) is reviewed at least every 3 years and in any event whenever a modification of an establishment to which Regulation 13(1) refers occurs, and
- (d) if as a result of such review the information needs to be revised such revisions are made and the revised information is supplied.

(3) Where the Authority has been obliged, by reason of failure to co-operate, delay or other unreasonable behaviour on the part of the operator concerned, to determine the specified area under paragraph (1)(a), the reasonable expenses incurred by the Authority (or such portion as may be attributable to such failure, delay or other unreasonable behaviour) in determining that area shall be recoverable by the Authority from that operator as a simple contract debt.

(4) Where under paragraph (1)(a) it is established that a major accident may have an effect outside the State then the operator shall provide the information referred to in paragraph (1)(b), in such reasonable quantities as may be requested, to the persons specified in Regulation 19(1)(c).

#### Part 4

### ***External Emergency Plans for upper tier sites – functions of competent authorities***

#### **Preparation of External Emergency Plan .**

17. (1)The Authority shall notify the relevant competent authorities where external emergency plans are required under these Regulations.

(2) It shall be the function of every competent authority, upon being notified by the Authority under paragraph (1), to prepare, within 6 months of being so notified, subject to paragraph (4)(a), an external emergency plan for action to be taken outside the establishment in relation to possible major accidents at the establishment, which shall

- (i) take account of information provided by the operator, and any such additional information which the competent authorities may require of the operator,

- (ii) take account of information provided by the Authority,
- (iii) include arrangements for coordinating off-site action and resources,
- (iv) fulfil the objectives set out in Part 1 of Schedule 6,
- (v) include the data and information set out in paragraph 2 of Part 2 of Schedule 6, and
- (vi) take into account the need to facilitate enhanced co-operation in civil protection assistance in major emergencies.

(3) A competent authority, shall provide such information from the external emergency plan to the operator concerned as is relevant to the performance of the duties of that operator under these Regulations.

(4) Where a notification given to a competent authority under paragraph (1) concerns an establishment outside the State, then –

- (a) in preparing the external emergency plan, this Regulation shall be construed as if Regulation 13(1) and (2) did not apply, and
- (b) the competent authority, shall provide to the operator of that establishment such information from the external emergency plan as it considers appropriate.

(5) Where in preparing or amending an external emergency plan for an establishment a competent authority is satisfied that a major accident may have an effect outside the State then that authority shall provide sufficient information to the persons referred to in Regulation 19(1)(c) in the potentially affected State to allow the preparation of such emergency plans as may be necessary.

(6) The Authority may decide, by virtue of the information contained in a safety report that a competent authority shall not be required to prepare an external emergency plan and in that event shall notify the relevant competent authority in writing of that decision, giving reasons for that decision when so notifying that competent authority.

**Activation of external emergency plan .**

18. A competent authority, which has prepared an emergency plan under Regulation 17 shall put it into effect immediately 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.

**Consultation by competent authorities, external emergency plan and specified area.**

19. (1) Competent authorities, shall, in preparing an external emergency plan, consult with –

- (a) other competent authorities,
  - (i) in whose functional area the establishment to which the plan relates is or is to be situated, or
  - (ii) whose functional area might be affected by a major accident at the establishment,
- (b) the Authority,
- (c) such persons or authorities outside the State as have responsibility for the preparation and implementation of external emergency plans in respect of such establishments as are referred to in Regulation 17(3),
- (d) the operator in respect of whose establishment the plan relates, including as regards the safety report and the specified area,
- (e) the public, and
- (f) the EPA, in relation to possible risks of environmental pollution from a major accident.

(2) Where any person brings to the attention of a competent authority, that a major accident at an establishment outside the State may potentially affect persons in the specified area within its functional area, that competent authority shall—

- (a) consult with the persons and authorities referred to in paragraph (1)
- (b) fulfil the obligations referred to in Regulation 16(1)(b) and (d) in so far as the information required is available, and

- (c) ensure that the information provided takes into consideration any relevant provisions in the external emergency plan prepared in accordance with Regulation 17.

**External emergency plan - review and revision by competent authorities.**

20. (1) A competent authority, which has prepared an emergency plan pursuant to Regulation 17 shall periodically and as often as the circumstances require it but in any event at intervals not exceeding 3 years –

- (a) review and, where necessary, revise the plan which revision shall be carried out in consultation with the persons listed in Regulation 19(1), and

- (b) ensure that the plan is tested,

and any such review shall take into account–

- (i) changes occurring in the establishment concerned or within the emergency services concerned,
- (ii) new technical knowledge and knowledge concerning the response to major accidents, and
- (iii) information provided by the Authority under paragraph (2).

(2) The Authority shall supply each competent authority with such information relating to major accidents as such authority may reasonably require for the purpose of reviewing its external emergency plans, which have been prepared under Regulation 17.

*Part 5*

*Major Accidents – duties of operator and others*

**Duty of operator to inform about major accidents.**

21. Without prejudice to Regulation 23 it shall be the duty of an operator, where a major accident occurs, to —

- (a) immediately inform the relevant contact body or bodies referred to in the external emergency plan, in the case of upper tier sites, and the Authority in all cases, and

(b) provide the 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 and the environment, and
- (iv) the emergency measures taken,

(c) inform the Authority of the steps envisaged to alleviate any medium-term or long-term effects of the accident and to prevent any recurrence of such an accident, and

(d) update the information provided if further investigation reveals additional facts which alter that information or the conclusions drawn.

**Preservation of scene of major accident.**

22. Where a major accident occurs in or about or in connection with an establishment, no person shall disturb the place where the accident occurred, or tamper with anything in that place, except –

- (a) for the purpose of administering medical aid to persons injured in the accident, extinguishing fires or preventing damage to the environment, or
- (b) with the consent of an inspector of the Authority.

**Notifiable accidents and incidents, and register – duty of operator.**

23. (1) It shall be the duty of the operator of every establishment whenever a notifiable accident or incident occurs of the type set out in Schedule 8, to immediately inform the Authority of that accident or incident.

(2) It shall be the duty of the operator of every establishment to keep a register containing the following information on every notifiable accident and incident that occurs—

(a) in the case of a major accident, the information set out in Regulation 21(b), and

(b) in any other case—

(i) the circumstances of the accident or incident,

(ii) the dangerous substances involved (if any), and

(iii) the emergency measures taken.

(3) Any information required to be kept under paragraph (2) shall be included in the register as soon as possible after the occurrence of the notifiable accident or incident to which it relates and shall be kept on that register for at least 10 years after that occurrence.

## Schedule 1

Regulation 2

### **DANGEROUS SUBSTANCES TO WHICH THE REGULATIONS APPLY**

#### **Requirements applying to Schedule 1**

#### **Annex I to Council Directive 96/82/EC**

1. This Schedule applies to the presence of dangerous substances at any establishment to which these Regulations apply.
2. Mixtures and preparations shall be treated in the same way as pure substances provided they remain within concentration limits set according to their properties under the relevant statutory instruments referred to in Part 2 of this Schedule, Note 1, or their latest adaptation to technical progress, unless a percentage composition or other description is specifically given.
3. The qualifying quantities set out in this Schedule relate to each establishment.
4. 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 on the site.
5. The rules given in Part 2 of this Schedule, Note 4 governing the addition of dangerous substances, or categories of dangerous substances, shall apply where appropriate.
6. For the purposes of these Regulations, a gas is any substance that has an absolute vapour pressure equal to or greater than 101.3 kPa at a temperature of 20° C.

7. For the purposes of these Regulations, a liquid is any substance that is not defined as a gas and that is not in the solid state at a temperature of 20° C and at a standard pressure of 101.3 kPa.

8. Where a substance or group of substances listed in Part 1 of this Schedule also falls within a category of Part 2 of this Schedule, the qualifying quantities set out in Part 1 shall be used.

**PART 1**  
**Named substances**

Column 1	Column 2	Column 3
Dangerous substances	Qualifying quantity (tonnes) for the application of	
	Articles 6 and 7	Article 9
Ammonium nitrate (see note 1)	5000	10000
Ammonium nitrate (see note 2)	1250	5000
Ammonium nitrate (see note 3)	350	2500
Ammonium nitrate (see note 4)	10	50
Potassium nitrate (see note 5)	5000	10000
Potassium nitrate (see note 6)	1250	5000
Arsenic pentoxide, arsenic (V) acid and/or salts	1	2
Arsenic trioxide, arsenious (III) acid and/or salts		0.1
Bromine	20	100
Chlorine	10	25
Nickel compounds in inhalable powder form (nickel monoxide, nickel dioxide, nickel sulphide, trinickel disulphide, dinickel trioxide)		1
Ethyleneimine	10	20
Fluorine	10	20
Formaldehyde (concentration $\geq 90$ %)	5	50
Hydrogen	5	50
Hydrogen chloride (liquefied gas)	25	250
Lead alkyls	5	50

Liquefied extremely flammable gases (including LPG) and natural gas	50	200
Acetylene	5	50
Ethylene oxide	5	50
Propylene oxide	5	50
Methanol	500	5000
4, 4-Methylenebis (2-chloraniline) and/or salts, in powder form		0.01
Methylisocyanate		0.15
Oxygen	200	2000
Toluene diisocyanate	10	100
Carbonyl dichloride (phosgene)	0.3	0.75
Arsenic trihydride (arsine)	0.2	1
Phosphorus trihydride (phosphine)	0.2	1
Sulphur dichloride	1	1
Sulphur trioxide	15	75
Polychlorodibenzofurans and polychlorodibenzodioxins (including TCDD), calculated in TCDD equivalent		0.001
The following CARCINOGENS at concentrations above 5% by weight:	0.5	2
4-Aminobiphenyl and/or its salts, Benzotrichloride, Benzidine and/or salts, Bis (chloromethyl) ether, Chloromethyl methyl ether, 1,2-Dibromoethane, Diethyl sulphate, Dimethyl sulphate, Dimethylcarbamoil chloride, 1,2-Dibromo-3-chloropropane, 1,2-Dimethylhydrazine, Dimethylnitrosamine, Hexamethylphosphoric triamide, Hydrazine, 2-Naphthylamine and/or salts, 4-Nitrodiphenyl, and 1,3 Propanesultone		
Petroleum products:	2500	25000
(a) gasolines and naphthas, (b) kerosenes (including jet fuels) (c) gas oils (including diesel fuels, home		

## NOTES

### 1. Ammonium nitrate (5000/10000): fertilisers capable of self-sustaining decomposition

This applies to ammonium nitrate-based compound/composite fertilisers (compound/composite fertilisers containing ammonium nitrate with phosphate and/or potash) in which the nitrogen content as a result of ammonium nitrate is–

- between 15.75% <sup>(1)</sup> and 24.5% <sup>(2)</sup> by weight, and either with not more than 0.4% total combustible/organic materials or which fulfil the requirements of Annex II of Directive 80/876/EEC,

- 15.75% <sup>(3)</sup> by weight or less and unrestricted combustible materials,

and which are capable of self-sustaining decomposition according to the UN Trough Test (as set out in the United Nations Recommendations on the Transport of Dangerous Goods: Manual of Tests and Criteria, Part III, subsection 38.2).

### 2. Ammonium nitrate (1250/5000): fertiliser grade

This applies to straight ammonium nitrate-based fertilisers and to ammonium nitrate-based compound/composite fertilisers in which the nitrogen content as a result of ammonium nitrate is

- more than 24.5% by weight, except for mixtures of ammonium nitrate with dolomite, limestone and/or calcium carbonate with a purity of at least 90%,

- more than 15.75% by weight for mixtures of ammonium nitrate and ammonium sulphate,

- more than 28%<sup>(4)</sup> by weight for mixtures of ammonium nitrate with dolomite, limestone and/or calcium carbonate with a purity of at least 90%,

and which fulfil the requirements of Annex II of Directive 80/876/EEC.

### 3. Ammonium nitrate (350/2500): technical grade

This applies to:

- ammonium nitrate and preparations of ammonium nitrate in which the nitrogen content as a result of the ammonium nitrate is

- between 24.5% and 28% by weight, and which contain not more than 0.4% combustible substances,

- more than 28% by weight, and which contain not more than 0.2% combustible substances,

- aqueous ammonium nitrate solutions in which the concentration of ammonium nitrate is more than 80% by weight.

4. Ammonium nitrate (10/50): “off-specs” material and fertilisers not fulfilling the detonation test

This applies to:

- material rejected during the manufacturing process and to ammonium nitrate and preparations of ammonium nitrate, straight ammonium nitrate-based fertilisers and ammonium nitrate-based compound/composite fertilisers referred to in notes 2 and 3, that are being or have been returned from the final user to a manufacturer, temporary storage or reprocessing plant for reworking, recycling or treatment for safe use, because they no longer comply with the specifications of Notes 2 and 3;

- fertilisers referred to in Note 1, first indent, and Note 2 which do not fulfil the requirements of Annex II of Directive 80/876/EEC.

5. Potassium nitrate (5000/10000): composite potassium-nitrate based fertilisers composed of potassium nitrate in prilled/granular form.

6. Potassium nitrate (1250/5000): composite potassium-nitrate based fertilisers composed of potassium nitrate in crystalline form.

7. Polychlorodibenzofurans and polychlorodibenzodioxins

The quantities of polychlorodibenzofurans and polychlorodibenzodioxins are calculated using the following factors:

International Toxic Equivalent Factors (ITEF) for the congeners of concern (NATO/CCMS)			
2,3,7,8-TCDD	1	2,3,7,8-TCDF	0.1
1,2,3,7,8-PeDD	0.5	2,3,4,7,8-PeCDF	0.5
		1,2,3,7,8-PeCDF	0.05
1,2,3,4,7,8-HxCDD	0.1		
1,2,3,6,7,8-HxCDD	0.1	1,2,3,4,7,8-HxCDF	0.1
1,2,3,7,8,9-HxCDD	0.1	1,2,3,7,8,9-HxCDF	0.1
		1,2,3,6,7,8-HxCDF	0.1
1,2,3,4,6,7,8-HpCDD	0.01	2,3,4,6,7,8-HxCDF	0.1
OCDD	0.001	1,2,3,4,6,7,8-HpCDF	0.1
		1,2,3,4,7,8,9-HpCDF	0.01
		OCDF	0.01

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

- (1) 15.75% nitrogen content by weight as a result of ammonium nitrate corresponds to 45% ammonium nitrate.
- (2) 24.5% nitrogen content by weight as a result of ammonium nitrate corresponds to 70% ammonium nitrate.
- (3) 15.75% nitrogen content by weight as a result of ammonium nitrate corresponds to 45% ammonium nitrate.
- (4) 28% nitrogen content by weight as a result of ammonium nitrate corresponds to 80% ammonium nitrate.

**PART 2**  
**Categories of substances and preparations not specifically named in Part 1**

Column 1	Column 2	Column 3
Categories of dangerous substances	Qualifying quantity (tonnes) of dangerous substances as delivered in Article 3 (4), for the application of	
	Articles 6 and 7	Article 9
1. VERY TOXIC	5	20
2. TOXIC	50	200
3. OXIDIZING	50	200
4. EXPLOSIVE (see Note 2) where the substance, preparation or article falls under UN/ADR Division 1.4	50	200
5. EXPLOSIVE (see Note 2) where the substance, preparation or article falls under any of: UN/ADR Divisions 1.1, 1.2, 1.3, 1.5 or 1.6 or risk phrase R2 or R3	10	50
6. FLAMMABLE (where the substance or preparation falls within the definition given in Note 3(a))	5000	50000
7 a. HIGHLY FLAMMABLE (where the substance or preparation falls within the definition given in Note 3(b)(1))	50	200
7 b. HIGHLY FLAMMABLE liquids (where the substance or preparation falls within the definition given in Note 3(b)(2))	5000	50000
8. EXTREMELY FLAMMABLE (where the substance or preparation falls within the definition given in Note 3(c))	10	50
9. DANGEROUS FOR THE ENVIRONMENT risk phrases:		
(i) R50: "Very toxic to aquatic organisms" (including R50/53)	100	200
(ii) R51/53: "Toxic to aquatic	200	500

organisms; may cause long term adverse effects in the aquatic environment”		
10. ANY CLASSIFICATION not covered by those given above in combination with risk phrases:		
(i) R14: “Reacts violently with water” (including R14/15)	100	500
(ii) R29: “in contact with water, liberates toxic gas”	50	200

#### NOTES

1. Substances and preparations are classified according to the following Directives (as amended) and their current adaptation to technical progress:

- Council Directive 67/548/EEC of 27 June 1967 on the approximation of the laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances <sup>(1)</sup>,
- Directive 1999/45/EC of the European Parliament and of the Council of 31 May 1999 concerning the approximation of laws, regulations and administrative provisions of the Member States relating to the classification, packaging and labelling of dangerous preparations <sup>(2)</sup>

In the case of substances and preparations which are not classified as dangerous according to either of the above Directives, for example 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, the procedures for provisional classification shall be followed in compliance with the relevant Directive.

In the case of substances and preparations with properties giving rise to more than one classification, for the purposes of this Directive the lowest qualifying quantities shall apply. However, for the application of the rule in Note 4, the qualifying quantity used shall always be the one corresponding to the classification concerned.

For the purposes of this Directive, the Commission shall establish and keep up to date a list of substances which have been classified into the above categories by a harmonised Decision in accordance with Directive 67/548/EEC.

2. An “explosive” means:

- a substance or preparation which creates the risk of an explosion by shock, friction, fire or other sources of ignition (risk phrase R2),
- a substance or preparation which creates extreme risks of explosion by shock, friction, fire or other sources of ignition (risk phrase R3), or
- a substance, preparation or article covered by Class 1 of the European Agreement concerning the International Carriage of Dangerous Goods by Road (referred to in this Schedule as UN/ADR), concluded on 30 September 1957, as amended, as transposed by Council Directive

94/55/EC of 21 November 1994 on the approximation of the laws of the Member States with regard to the transport of dangerous goods by road <sup>(3)</sup>.

Included in this definition are pyrotechnics, which for the purposes of this Directive are defined as substances (or mixtures of substances) designated to produce heat, light, sound, gas or smoke or a combination of such effects through self-sustained exothermic chemical reactions. Where a substance or preparation is classified by both UN/ADR and risk phase R2 or R3, the UN/ADR classification shall take precedence over assignment of risk phrases.

Substances and articles of Class 1 are classified in any of the divisions 1.1 to 1.6 in accordance with the UN/ADR classification scheme. The divisions concerned are:

Division 1.1: "Substances and articles which have a mass explosion hazard (a mass explosion is an explosion which affects almost the entire load virtually instantaneously)".

Division 1.2: "Substances and articles which have a projection hazard but not a mass explosion hazard".

Division 1.3: "Substances and articles which have a fire hazard and either a minor blast hazard or a minor projection hazard or both, but not a mass explosion hazard:

(a) combustion of which gives rise to considerable radiant heat; or

(b) which burns one after another, producing minor blast or projection effects or both".

Division 1.4: "Substances and articles which present only a slight risk in the event of ignition or initiation during carriage. The effects are largely confined to the package and no projection of fragments of appreciable size or range is to be expected. An external fire shall not cause virtually instantaneous explosion of virtually the entire contents of the package".

Division 1.5: "Very insensitive substances having a mass explosion hazard which are so insensitive that there is very little probability of initiation or of transition from burning to detonation under normal conditions of carriage. As a minimum requirement they shall not explode in the external fire test".

Division 1.6: "Extremely insensitive articles which do not have a mass explosion hazard. The articles contain only extremely insensitive detonating substances and demonstrate a negligible probability of accidental initiation or propagation. The risk is limited to the explosion of a single article".

Included in this definition are also explosive or pyrotechnic substances or preparations contained in articles. In the case of articles containing explosive or pyrotechnic substances or preparations, if the quantity of the substance or preparation contained is known, that quantity shall be considered for the purposes of this Directive. If the quantity is not known, then, for the purposes of this Directive, the whole article shall be treated as explosive.

3. "Flammable", "highly flammable", and "extremely flammable" in categories 6, 7 and 8 mean:

(a) flammable liquids:

- substances and preparations having a flash point equal to or greater than 21 °C and less than or equal to 55°C (risk phrase R 10), supporting combustion;

(b) highly flammable liquids:

1. - substances and preparations which may become hot and finally catch fire in contact with air at ambient temperature without any input of energy (risk phrase R 17),

- substances and preparations which have a flash point lower than 55 °C and which remain liquid under pressure, where particular processing conditions, such as high pressure or high temperature, may create major-accident hazards;

2. substances and preparations having a flash point lower than 21 °C and which are not extremely flammable (risk phrase R 11, second indent);

(c) extremely flammable gases and liquids:

1. liquid substances and preparations which have a flash point lower than 0 °C and the boiling point (or, in the case of a boiling range, the initial boiling point) of which at normal pressure is less than or equal to 35 °C (risk phrase R 12, first indent), and

2. gases which are flammable in contact with air at ambient temperature and pressure (risk phrase R 12, second indent), which are in a gaseous or supercritical state, and

3. flammable and highly flammable liquid substances and preparations maintained at a temperature above their boiling point.

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

These Regulations shall apply 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 Parts 1 or 2 of this Annex,

and  $Q_{Ux}$  = the relevant qualifying quantity for substance or category x from column 3 of Parts 1 or 2.

These Regulations shall apply, with the exception of Articles 9, 11 and 13, 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 Parts 1 or 2 of this Schedule,

and  $Q_{Lx}$  = the relevant qualifying quantity for substance or category x from column 2 of Parts 1 or 2 of this Schedule.

This rule shall be used to assess the overall hazards associated with toxicity, flammability, and eco-toxicity. It must therefore be applied three times:

- (a) for the addition of substances and preparations named in Part 1 and classified as toxic or very toxic, together with substances and preparations falling into categories 1 or 2;
- (b) for the addition of substances and preparations named in Part 1 and classified as oxidising, explosive, flammable, highly flammable, or extremely flammable, together with substances and preparations falling into categories 3, 4, 5, 6, 7a, 7b or 8;
- (c) for the addition of substances and preparations named in Part 1 and classified as dangerous for the environment (R50 (including R50/53) or R51/53), together with substances and preparations falling into categories 9(i) or 9(ii);

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

<sup>(1)</sup> O.J. L 196, 16.8.1967, p.1. Directive as last amended by Regulation (EC) No 807/2003 (O.J). L 122, 16.5.2003, p.36).

<sup>(2)</sup> O.J. L 200, 30.7.1999, p.1. Directive as amended by Commission Directive 2001/60/EC (O.J). L 226, 22.8.2001, p.5).

<sup>(3)</sup> O.J. L 319, 12.12.1994, p.7. Directive as last amended by Commission Directive 2003/28/EC (O.J). L 90, 8.4.2003, p.45).

**Article 6(2) of Council Directive 96/82/EC**

**INFORMATION TO BE INCLUDED IN A NOTIFICATION TO THE AUTHORITY**

The notification required by Regulation 8(1) shall contain the following details—

- (a) the name or trade 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 or position of the person in charge of the establishment, if different from (a);
- (d) information sufficient to identify the dangerous substances or category of substances involved;
- (e) the quantity and physical form of the dangerous substance or substances involved;
- (f) the activity or proposed activity of the installation or storage facility;
- (g) the immediate environment of the establishment including elements liable to cause a major accident or to aggravate its consequences;
- (h) the name of any establishment in proximity where the likelihood and the possibility or consequences of a major accident may be increased because of its location and inventory of dangerous substances;
- (i) a map at a scale of not less than 1:5000 and clearly showing the location and boundary and the immediate environment as set out in paragraph (g) of this Schedule.

**MAJOR ACCIDENT PREVENTION POLICY AND SAFETY MANAGEMENT SYSTEM****Annex III to Council Directive 96/82/EC****PRINCIPLES AND INFORMATION ON THE MANAGEMENT SYSTEM AND THE ORGANIZATION OF THE ESTABLISHMENT WITH A VIEW TO THE PREVENTION OF MAJOR ACCIDENTS**

For the purpose of implementing the operator's major-accident prevention policy and safety management system, account shall be taken of the following elements. The requirements laid down in the document referred to in Regulation 10 should be proportionate to the major-accident hazards presented by the establishment:

(a) the major-accident prevention policy should be established in writing and should include the operator's overall aims and principles of action with respect to the control of major-accident hazards;

(b) the safety management system should include the part of the general management system which includes the organizational structure, responsibilities, practices, procedures, processes and resources for determining and implementing the major-accident prevention policy;

(c) the following issues shall be addressed by the safety management system:

- (i) organisation and personnel — the roles and responsibilities of personnel involved in the management of major hazards at all levels in the organisation. The identification of training needs of such personnel and the provision of the training so identified. The involvement of employees and, where appropriate, subcontracted personnel working in the establishment;
- (ii) identification and evaluation of major hazards — adoption and implementation of procedures for systematically identifying major hazards arising from normal and abnormal operation and the assessment of their likelihood and severity;
- (iii) operational control — adoption and implementation of procedures and instructions for safe operation, including maintenance, of plant, processes, equipment and temporary stoppages;
- (iv) management of change — adoption and implementation of procedures for planning modifications to, or the design of new installations, processes or storage facilities;
- (v) planning for emergencies — adoption and implementation of procedures to identify foreseeable emergencies by systematic analysis and to prepare, test and review emergency plans to respond to such emergencies and to provide specific training for the staff concerned. Such training shall be given to all personnel working in the establishment, including relevant subcontracted personnel;
- (vi) 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 should 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;

- (vii) 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.

**Article 9 of Council Directive 96/82/EC**

**SAFETY REPORTS  
PART I  
PURPOSE OF SAFETY REPORTS**

A safety report shall be produced for the purposes of—

1. 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 2;
2. demonstrating that major-accident hazards 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;
3. demonstrating that adequate safety and reliability have been incorporated into the—
  - (a) design and construction, and
  - (b) operation and maintenance,

of any installation, storage facility, equipment and infrastructure connected with its operation which are linked to major accident hazards inside the establishment;

4. demonstrating that internal emergency plans have been drawn up and supplying information to enable the external plan to be drawn up in order to take the necessary measures in the event of a major accident;
5. providing sufficient information to the competent authorities and planning authorities to enable decisions to be made in terms of the siting of new activities or developments around existing establishments;
6. containing an updated inventory of the dangerous substances present in an establishment.

## **PART 2**

### **DATA AND INFORMATION IN A SAFETY REPORT**

#### **MINIMUM DATA AND INFORMATION TO BE INCLUDED IN THE SAFETY REPORT**

##### **Annex II to Council Directive 96/82/EC**

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

This information shall include the following.

#### **II. Presentation of the environment of the establishment**

- A. description of the site 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. description of areas where a major accident may occur.

#### **III. 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;
- C. description of dangerous substances:
  - 1. inventory of dangerous substances including -
    - the identification of dangerous substances: chemical name, CAS number, name according to IUPAC nomenclature,
    - the maximum quantity of dangerous substances present or likely to be present;
  - 2. physical, chemical, toxicological characteristics and indication of the hazards, both immediate and delayed for human health and the environment;
  - 3. physical and chemical behaviour under normal conditions of use or under foreseeable accidental conditions.

#### **IV. 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;

- B. assessment of the extent and severity of the consequences of identified major accidents including maps, images or, as appropriate, equivalent descriptions, showing areas which are liable to be affected by such accidents arising from the establishment, subject to the provisions of Articles 13(4) and 20;
- C. description of technical parameters and equipment used for the safety of installations.

**V. Measures of protection and intervention to limit the consequences of an accident**

- A. description of the equipment installed in the plant to limit the consequences of major accidents;
- B. organization of alert and intervention;
- C. description of mobilizable resources, internal or external;
- D. summary of elements described in A, B, and C above necessary for drawing up the internal emergency plan prepared in compliance with Regulation 14.

**CRITERIA FOR LIMITING THE INFORMATION IN A SAFETY REPORT**

A dispensation may be granted if at least one of the following generic criteria is fulfilled:

**Physical form of substance**

Substances in solid form, such that, under both normal conditions and any abnormal conditions which can reasonably be foreseen, a release, of matter or of energy, which could create a major accident hazard, is not possible.

**Containment and quantities**

Substances packaged or contained in such a fashion and in such quantities that the maximum release possible under any circumstances cannot create a major accident hazard.

**Location and quantities**

Substances present in such quantities and at such distances from other dangerous substances (at the establishment or elsewhere) that they can neither create a major accident hazard by themselves nor initiate a major accident involving other dangerous substances.

**Classification**

Substances which are defined as dangerous substances by virtue of their generic classification in Schedule 1, Part 2, but which cannot create a major accident hazard, and for which therefore the generic classification is inappropriate for this purpose.

## Schedule 6

Regulations 14 and 17

### EMERGENCY PLANS

#### PART 1 OBJECTIVES OF EMERGENCY PLANS

##### Article 11(2) of Council Directive 86/82/EC

Emergency plans must be prepared with the objectives of—

- (a) containing and controlling incidents so as to minimize the effects, and to limit damage to human health, the environment and property,
- (b) implementing the measures necessary 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.

#### PART 2 DATA AND INFORMATION TO BE INCLUDED IN EMERGENCY PLANS

##### Annex IV to Council Directive 96/82/EC

###### 1. Internal emergency plans

- (a) Names or positions of persons authorised to set emergency procedures in motion and the person in charge of and coordinating 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) Arrangements for training staff in the duties they will be expected to perform, and where necessary coordinating this with off-site emergency services.
- (g) Arrangements for providing assistance with off-site mitigatory action.

## 2. External emergency plans

(a) Names or positions of persons authorized to set emergency procedures in motion and of persons authorized to take charge of and coordinate off-site action.

(b) Arrangements for receiving early warning of incidents, and alert and call-out procedures.

(c) Arrangements for coordinating 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.

(f) Arrangements for providing the public with specific information relating to the accident and the behaviour which it should adopt.

(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.

**ITEMS OF INFORMATION TO BE COMMUNICATED TO THE PUBLIC**

**Annex V to Council Directive 96/82/EC**

1. Name of operator and address of the establishment.
2. Identification, by position held, of the person giving the information.
3. Confirmation that the establishment is subject to these Regulations and that the notification referred to in Regulation 8 or the safety report referred to in Regulation 12 has been submitted to the Authority.
4. An explanation in simple terms of the activity or activities undertaken at the establishment.
5. The common names or, in the case of dangerous substances covered by Part 2 of Schedule 1, the generic names or the general danger classification of the substances and preparations involved at the establishment which could give rise to a major accident, with an indication of their principal dangerous characteristics.
6. General information relating to the nature of the major-accident hazards, including their potential effects on the population and the environment.
7. Adequate information on how the population concerned will be warned and kept informed in the event of a major accident.
8. Adequate information on the actions the population concerned should take, and on the behaviour they should adopt, in the event of a major accident.
9. 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 minimize their effects.
10. A reference to 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.
11. Details of where further relevant information can be obtained, subject to the requirements of confidentiality laid down in national legislation.

**MAJOR ACCIDENTS AND NEAR MISSES****CRITERIA FOR THE NOTIFICATION OF AN ACCIDENT OR INCIDENT****Annex VI to Council Directive 96/82/EC**

**I Any accident covered by paragraph 1 or having at least one of the consequences described in paragraphs (2), (3), (4) and (5).**

**(1) 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 Parts 1 and 2 of Schedule 1.

**(2) Injury to persons and damage to real estate**

An accident directly involving a dangerous substance and giving rise to one of the following events:

- (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 x hours): the value is at least 500, and
- (f) the interruption of drinking water, electricity, gas or telephone services for more than 2 hours (persons x hours): the value is at least 1000.

**(3) Immediate damage to the environment**

- (a) permanent or long-term damage to terrestrial habitats,
  - (i) 0.5 ha 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) one ha or more of a lake or pond,

- (iii) 2 ha or more of delta,
- (iv) 2 ha or more of a coastline or open sea,
- (c) significant damage to an aquifer or underground water
  - (i) one ha or more.

In assessing damage for the purposes of subparagraphs (d) and (i), account may be taken of the provision of Directives 75/440/EEC, 76/464/EEC and Directives adopted for its application in relation to certain substances, namely, Directives 76/160/EEC, 78/659/EEC, 79/923/EEC, or to the Lethal Concentration (LC) for 50% of the species representative of the environment affected as defined by Directive 92/32/EEC for the criterion 'dangerous for the environment'

(4) Damage to property

- (a) damage to property in the establishment at least ECU 2 million,
- (b) damage to property outside the establishment; at least ECU 0.5 million.

(5) Cross-border damage

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

**II Accidents or 'near misses', which do not meet the quantitative criteria in paragraph 1 above but which are of particular technical interest for preventing major accidents and limiting their consequences, including the following notifiable incidents:**

1. The explosion, collapse or bursting of any closed vessel, including a boiler or boiler tube, in which the internal pressure was above or below atmospheric pressure.
2. An explosion or fire occurring in any installation or place which resulted in the stoppage of any part of the installation or suspension of normal work in that place for more than 24 hours, where such explosion or fire was due to the ignition of process materials, their by-products (including waste) or finished products.
3. The uncontrolled or accidental release or the escape of any dangerous substance from any apparatus, equipment, pipework, pipe-line, process plant, storage vessel, tank or inworks conveyance tanker, which, having regard to the nature of the substance and the extent and location of the release or escape, might have been liable to cause serious injury to any person or serious damage to the environment.
4. Any unintentional ignition or explosion of explosives.
5. Either of the following incidents in relation to a pipe-line containing a dangerous substance:—
  - (a) the bursting, explosion or collapse of a pipe-line or any part thereof;
  - (c) the unintentional ignition of anything in a pipe-line, or of anything which immediately before it was ignited was in a pipeline.

GIVEN under my hand,

2009

Minister of State at the Department of  
Enterprise, Trade and Employment.

The Minister for the Environment, Heritage and Local Government consents to the making of the foregoing Regulations.

GIVEN under the Official Seal

[DATE]

Minister for the Environment,  
Heritage and Local Government.

The Minister for Health and Children consents to the making of the foregoing Regulations.

GIVEN under the Official Seal

[DATE]

Minister for Health and Children.

The Minister for Justice, Equality and Law Reform consents to the making of the foregoing Regulations.

GIVEN under the Official Seal

[DATE]

Minister for Justice, Equality and  
Law Reform.

The Minister for Transport consents to the making of the foregoing Regulations.

GIVEN under the Official Seal

[DATE]

Minister for Transport.

## **EXPLANATORY NOTE**

*(This note is not part of the Instrument and does not purport to be a legal interpretation.)*

These Regulations replace the European Communities (Control of Major Accident Hazards Involving Dangerous Substances) Regulations 2006 (S.I. No. 74 of 2006) and re-transpose Directive 96/82/EC, as amended by Directive 2003/105/EC – the so-called “Seveso Directives”. Re-making the Regulations under the Chemicals Act 2008 (No. 13 of 2008) will lead to a clearer enforcement framework and higher penalties and clarify the roles of the various duty-holders, all of which should improve compliance.

The Regulations apply to establishments where dangerous substances are present in amounts equal to or exceeding the application thresholds.

### **Duties of Operators**

In respect of every establishment covered by the Regulations, it shall be the duty of the operator concerned to take all necessary measures:

- to prevent major accidents occurring, and
- to limit the consequences of any such major accidents for man and the environment.

Operators of all establishments must:

- Notify the Health and Safety Authority and the local planning authority,
- Discharge certain general duties,
- Prepare and implement a major accident prevention policy,
- Take action in the event of a major accident, and
- Maintain a register of notifiable incidents.

Operators of upper-tier establishments have additional duties that include:

- Production of a Safety Report,
- Preparation of an internal emergency plan,
- Provision of information to those responsible for off-site emergency plans, and
- Provision of information for the safety of the public.