

2017 No. 365

TOWN AND COUNTRY PLANNING, ENGLAND

**The Planning (Hazardous Substances) (Amendment)
Regulations 2017**

<i>Made</i> - - - -	<i>13th March 2017</i>
<i>Laid before Parliament</i>	<i>15th March 2017</i>
<i>Coming into force</i> - -	<i>6th April 2017</i>

The Secretary of State, in exercise of the powers conferred by section 5 of the Planning (Hazardous Substances) Act 1990(a), makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Planning (Hazardous Substances) (Amendment) Regulations 2017 and come into force on 6th April 2017.

Controlled quantities

2.—(1) In Part 4 of Schedule 1 to the Planning (Hazardous Substances) Regulations 2015(b), for note 5 substitute—

“5.—(1) In the case of an establishment where two or more below-threshold substances in the same hazard group are present, the rule in paragraph (3) applies to those substances.

(2) In this note—

“below-threshold substances” are substances falling within Part 1 or 2 of this Schedule which are present in quantities below the quantities corresponding to those substances specified in column 2 of those Parts;

“hazard group” means each of the following groups of substances—

- (a) substances listed in Part 2 of this Schedule which fall within acute toxicity category 1, 2 or 3 (inhalation route) or STOT SE category 1 and substances which fall within section H, entries H1 to H3 of Part 1;
- (b) substances listed in Part 2 of this Schedule 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 and substances which fall within section P, entries P1 to P8 of Part 1;
- (c) substances listed in Part 2 of this Schedule which fall within hazardous to the aquatic environment acute category 1, chronic category 1 or chronic category 2 and substances which fall within section E, entries E1 and E2 of Part 1.

(a) 1990 c.10.

(b) S.I. 2015/627. Schedule 1 was amended by S.I. 2015/1359.

(3) Where, in relation to below-threshold substances in the same hazard group, the sum produced by the formula in paragraph (4) is greater than or equal to 1, the controlled quantity of each such substance shall be the value q_n used in that formula.

(4) The formula is—

$$\frac{q1}{CQ1} + \frac{q2}{CQ2} + \frac{q3}{CQ3} + \frac{q4}{CQ4} + \frac{q5}{CQ5} + \dots$$

where

q_n = the quantity of a below-threshold substance which is present at the establishment;

CQ_n = the quantity corresponding to that substance specified in column 2 of Part 1 or 2 of this Schedule (except for Hydrogen where CQ is to be 5, and for liquefied petroleum gas and natural gas (including liquefied natural gas) where CQ is to be 50).”

(2) In note 7, replace the words “each group of categories in notes 5(a), 5(b) and 5(c)” with “each hazard group under note 5”.

Signed by the authority of the Secretary of State for Communities and Local Government

Gavin Barwell
Minister of State

13th March 2017

Department for Communities and Local Government

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Planning (Hazardous Substances) Regulations 2015, which list the hazardous substances and quantities of those substances which are controlled under the Planning (Hazardous Substances) Act 1990. Those Regulations also set out a process for obtaining consent for controlled substances. Classification of substances is set out in European Regulation (EC) No. 1272/2008 on classification, labelling and packaging of substances and mixtures.

Regulation 2 clarifies a rule about how controlled quantities are calculated where two or more hazardous substances are present together but individually the amounts of those substances fall below the usual controlled quantities. The rule must be applied in relation to each of three hazard groups (categorised in Part 1 of Schedule 1 as health, physical, and environment hazards) to assess whether such substances nevertheless require consent. When applying the rule, no account is to be taken of substances present within the establishment which exceed the controlled quantity. For each hazard group, in accordance with Note 7, the lowest controlled quantity for that group should be used.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sectors is foreseen.

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