

**Offshore Petroleum Activities
(Oil Pollution Prevention and Control) Regulations 2005**

Consolidated Text

This document is an unofficial, consolidated version of the Offshore Petroleum Activities (Oil Pollution Prevention and Control) Regulations 2005 produced by the Department of Energy and Climate Change.

It incorporates amendments made to the Offshore Petroleum Activities (Oil Pollution Prevention and Control) Regulations 2005 by:

- The Energy Act 2008 (Consequential Modifications) (Offshore Environmental Protection) Order 2010; and
- The Offshore Petroleum Activities (Oil Pollution Prevention and Control) (Amendment) Regulations 2011.

While the Department has sought to ensure the accuracy of this text, it is not a substitute for the unconsolidated statutory instruments published by Her Majesty's Stationery Office, from which these consolidations are compiled. These can be accessed at www.legislation.gov.uk.

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2005 No 2055

ENVIRONMENTAL PROTECTION

Offshore Petroleum Activities (Oil Pollution Prevention and Control) Regulations 2005

Made 21st July 2005

Coming into force in accordance with regulation 1

Whereas the Secretary of State has consulted the persons required to be consulted by section 2(4) of the Pollution Prevention and Control Act 1999;

And whereas a draft of these Regulations has been laid before, and approved by a resolution of, each House of Parliament pursuant to section 2(8) and (9) of that Act;

Now, therefore, the Secretary of State in exercise of the powers conferred on her by sections 2 and 7(9) of that Act hereby makes the following Regulations:--

1 Citation and commencement

These Regulations may be cited as the Offshore Petroleum Activities (Oil Pollution Prevention and Control) Regulations 2005 and shall come into force on the thirtieth day after the day on which they are made.

2 Interpretation

In these Regulations--

"business day" means any day, except a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday in any part of the United Kingdom by virtue of the Banking and Financial Dealings Act 1971;

"discharge", in relation to oil, means any intentional emission of the oil from an offshore installation into the relevant area;

"enforcement notice" means a notice served under regulation 13(1) or (1A);

"existing exemption" means an exemption granted by the Secretary of State pursuant to section 23 of the Prevention of Oil Pollution Act 1971, being an exemption which is in force on the day before the day on which these Regulations come into force;

"installation" includes any floating structure or device maintained on a station by whatever means;

"notice" means notice in writing;

"offshore installation" means an installation or pipeline which is used for the purposes of, or in connection with, any activity in respect of which the Secretary of State exercises functions under the Petroleum Act 1998;

"oil" means any liquid hydrocarbon or substitute liquid hydrocarbon, including dissolved or dispersed hydrocarbons or substitute hydrocarbons that are not normally found in the liquid phase at standard temperature and pressure, whether obtained from plants or animals, or mineral deposits or by synthesis;

"operator" means any person who operates an offshore installation;

"permit" means an authorisation granted by the Secretary of State pursuant to these Regulations to discharge oil;

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"permit holder" means the holder from time to time of a permit;

"pollution" means the introduction by man, directly or indirectly, of substances or energy into the relevant area which results, or is likely to result, in hazards to human health, harm to living resources and marine ecosystems, damage to amenities or interference with other legitimate uses of the sea;

"prohibition notice" means a notice served under regulation 14(1);

"release", in relation to oil, means the emission (other than by way of discharge) of the oil from an offshore installation into the relevant area;

"relevant area" means that area (together with places above and below it) comprising-

- (a) those parts of the sea adjacent to England from the low water mark to the landward baseline of the United Kingdom territorial sea;
- (b) the United Kingdom territorial sea apart from those areas comprised in Scottish controlled waters and Welsh controlled waters; and
- (c) those areas of sea in any area for the time being designated under section 1(7) of the Continental Shelf Act 1964;

"Scottish controlled waters" means any waters which are controlled waters within the meaning of section 30A(1) of the Control of Pollution Act 1974.

"Welsh controlled waters" means those parts of the territorial sea adjacent to Wales which are controlled waters within the meaning of section 104 of the Water Resources Act 1991.

3 Discharge permits

(1) Subject to paragraphs (2) and (3), no oil shall be discharged save in accordance with the terms of, and conditions attached to, a permit.

(2) There shall be exempt from the requirement for a permit discharges regulated by--

- (a) the Offshore Chemicals Regulations 2002;
- (b) the Merchant Shipping (Prevention of Oil Pollution) Regulations 1996; or
- (c) the Merchant Shipping (Prevention of Pollution by Sewage and Garbage from Ships) Regulations 2008.

(3) Where a person is carrying on a discharge of oil to which an existing exemption applies paragraph (1) shall not apply in respect of that discharge until--

- (a) such time as the Secretary of State may specify by notice to that person; or
- (b) (if no notice is given by the Secretary of State in accordance with sub-paragraph (a)) the date after the day on which the period of two years commencing on the date these Regulations come into force expires.

3A Prohibition on the release of oil

No person shall-

- (a) release any oil; or
- (b) allow such a release to continue.

4 Grant or refusal and contents of permits

(1) Where the Secretary of State receives an application for a permit pursuant to regulation 5, she may either grant or refuse the application.

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- (2) The Secretary of State may attach conditions to any permit granted by her pursuant to paragraph (1) which are calculated to ensure that--
- (a) the concentration, frequency, quantity, location or duration of any discharge is subject to appropriate restrictions;
 - (b) appropriate measures are taken to minimise pollution including, in particular, the appropriate use of technology to limit discharges;
 - (c) necessary measures are taken to prevent incidents affecting the environment or, where they occur, to limit their consequences in relation to the environment;
 - (d) there is carried out appropriate monitoring of the discharges to which the permit relates, and such conditions may include--
 - (i) provisions relating to measurement techniques, the frequency of measurement and evaluation procedures; and
 - (ii) obligations to supply the Secretary of State with data required for checking compliance with the permit, including any data setting out the actual concentration, frequency, quantity, location or duration of any discharges which have occurred during a specified period.
- (3) A permit may be granted for a period specified in the permit or without limit of time.
- (4) In addition to any conditions that may be attached to any permit by virtue of paragraph (2), the Secretary of State may attach to a permit such other conditions as she thinks fit.
- (5) Where a permit is granted, the Secretary of State must send the permit to the applicant.
- (6) Where a permit is refused, the Secretary of State must send notice of such refusal to the applicant.

5 Contents of permit application

- (1) An application for the grant of a permit shall be made in writing and shall contain--
- (a) a description of the offshore installation from which the discharge is to take place, including the location of the offshore installation;
 - (b) a description of the oil to which the application relates and of the circumstances in which it is to be discharged;
 - (c) a description of the measures planned to monitor the discharge in relation to which a permit is sought; and
 - (d) an assessment of the risk of harm to the environment from the proposed discharge of oil.
- (2) For the purpose of considering an application under this regulation, the Secretary of State may by notice require the applicant to provide such other information as may be specified in the notice.

5A Publicity for permit applications

- (1) Except where the permit application is one to which paragraph (5) applies, for a period of not less than four weeks immediately following the publication of the notice referred to in paragraph (2) (or last publication, where it is published in more than one newspaper or on more than one occasion), a permit applicant shall—
- (a) having regard to the general whereabouts of any persons likely to be interested in, or affected by, the discharge of oil to which the application relates, make a copy of the application available for public inspection between the hours of 10 am and 4 pm on business days at an address in the United Kingdom; and
 - (b) subject to paragraph (4), supply a copy of the application to any person on request.
- (2) A permit applicant shall publish in such newspapers on such occasions as to be likely to come to the attention of any persons likely to be interested in, or affected by, the discharge of oil to which the application relates, a notice which—

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- (a) describes the application;
 - (b) gives the address at which a copy of the application may be inspected;
 - (c) gives the address from which a copy of the application may be requested and specifies the amount of any payment required in accordance with paragraph (4); and
 - (d) states a date not less than four weeks after the date on which the notice is to be last published by which any person may make representations in relation to the application to the Secretary of State and specifies the address to which any such representations are to be sent.
- (3) The permit applicant shall provide the Secretary of State with copies of the newspapers in which the notice appeared.
- (4) Where a copy of the application is demanded in accordance with paragraph (1)(b), the permit applicant—
- (a) must supply a copy as soon as reasonably practicable; and
 - (b) may make the supply of a copy conditional on the payment of a sum reflecting the cost of printing and distribution, subject to a maximum of £10 per copy.
- (5) This regulation does not apply to applications made—
- (a) in connection with a relevant project for which the Secretary of State gives a direction, pursuant to regulation 6 of the Offshore Petroleum Production and Pipe-lines (Assessment of Environmental Effects) Regulations 1999, that no environmental statement need be prepared;
 - (b) in connection with a discharge from a pipeline, being a discharge to which the Secretary of State gives consent pursuant to an authorisation issued under Part 3 of the Petroleum Act 1998; or
 - (c) in connection with activities carried out in accordance with an abandonment programme approved by the Secretary of State under Part 4 of the Petroleum Act 1998.

6 Fees

- (1) The Secretary of State may, in accordance with a charging scheme made by her for this purpose, charge applicants for permits, permit holders or operators fees in respect of any of the matters to which this paragraph applies.
- (2) The matters to which paragraph (1) applies are--
- (a) an application for the grant or renewal of a permit;
 - (b) a review, or an application for a review, of a permit or the conditions to which it is subject;
 - (c) a request for the Secretary of State's consent to the transfer of a permit;
 - (d) the revocation or surrender of a permit;
 - (e) the subsistence of a permit;
 - (f) the testing or analysis of substances;
 - (g) the validating of, or of the results of, any testing or analysis of substances; and
 - (h) the assessment of the effect upon the environment of the release into it of any oil,

but paragraph (1) only applies to the matters referred to in sub-paragraphs (f) to (h) in cases where the testing, analysis, validating or assessment is in any way in anticipation of, or otherwise in connection with, the making of permit applications or is carried out in pursuance of conditions to which the permit is subject.

- (3) A charging scheme made under this regulation shall be so framed that the fees and charges payable under the scheme are sufficient, taking one year with another, to cover such expenditure as may be incurred by or on behalf of the Secretary of State in connection with any of the matters to which paragraph (1) applies.

6A Application for renewal of an existing permit

- (1) Subject to paragraph (2), a permit holder may apply in writing to the Secretary of State to renew the permit.
- (2) An application for renewal of a permit pursuant to paragraph (1) shall be made no more than three months before the expiry of the permit.
- (3) The Secretary of State may grant or refuse an application received under paragraph (1).
- (4) Where the Secretary of State grants the renewal of a permit –
 - (a) the Secretary of State may make the grant subject to such further terms and conditions as the Secretary of State considers fit; and
 - (b) notice of the renewal and of any terms and conditions to which the renewal is subject under sub-paragraph (a) has effect once served on the applicant.
- (5) Where the Secretary of State refuses an application under this regulation, notice of such refusal shall be sent to the applicant.

7 Variation of permit terms and conditions

- (1) The Secretary of State may, whenever she thinks fit, review the terms and conditions attached to any permit and, when an application is made in accordance with paragraph (2), she shall review the terms and conditions attached to the permit in question.
- (2) A permit holder may apply in writing for a variation of the terms and conditions of a permit.
- (3) Where, having conducted a review in accordance with paragraph (1), the Secretary of State considers that the terms and conditions of a permit should be varied, she shall give notice to the permit holder of her intention to vary those terms and conditions.
- (4) Subject to paragraph (5), a notice given by the Secretary of State pursuant to paragraph (3) shall--
 - (a) provide details of the proposed variation; and
 - (b) specify the date ("the relevant date") on which the proposed variation is to take effect.
- (5) Where the Secretary of State proposes to vary the terms and conditions of a permit otherwise than in accordance with an application made under paragraph (2)--
 - (a) the relevant date shall be not less than 14 days after the date on which notice is given pursuant to paragraph (3);
 - (b) the permit holder shall be entitled to make representations in writing as to whether, and if so, how the terms and conditions should be varied;
 - (c) where no representations under sub-paragraph (b) are received prior to the relevant date, the variation shall have effect on that date; and
 - (d) where representations under sub-paragraph (b) are received prior to the relevant date, the Secretary of State shall consider them in determining whether or not to vary the terms and conditions as originally notified pursuant to paragraph (3) and may determine that revised terms and conditions shall come into effect on a date later than the relevant date.
- (6) Where an application is made under paragraph (2) and the Secretary of State decides not to vary the terms and conditions of the permit in question, she shall give notice of her decision to the permit holder.

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8 Transfer of permit

A permit holder shall not, except with the prior consent in writing of the Secretary of State and in accordance with the conditions (if any) of the consent, transfer the permit or any rights granted under the permit, to another person.

9 Revocation and surrender of permits

- (1) The Secretary of State may by notice revoke a permit where she is of the opinion that--
 - (a) any application made under these Regulations in connection with that permit contained or was supported by any information or statement which was false or misleading in a material particular; or
 - (b) any person has been guilty of a breach of any term or condition attached to the permit.
- (2) A permit holder may surrender his permit by notice to the Secretary of State.

9A Register of permits to be kept by the Secretary of State

- (1) The Secretary of State shall keep a register at a place in the United Kingdom in which shall be entered--
 - (a) the terms and conditions of any permits; and
 - (b) the results of any monitoring information required to be sent to the Secretary of State under the conditions of any permit.
- (2) The register shall be open to public inspection on business days from 10am to 4pm.

10 Allowance Trading

- (1) The making by the Secretary of State of the following is hereby authorised--
 - (a) a plan or plans for the allocation of allowances in relation to specified emissions ("allocation plans"); and
 - (b) one or more emissions trading schemes ("the trading schemes") for the purpose of facilitating the trading of allowances allocated under the allocation plans.
- (2) The Secretary of State may include in the rules of the trading schemes--
 - (a) provision for penalties in respect of contraventions of the terms and conditions of the trading scheme; and
 - (b) provision for the amount of any penalty under the trading scheme to be such as may be set out in or calculated in accordance with the scheme.

11 Registry

The Secretary of State shall for the purposes of the trading schemes establish and maintain one or more registries in which there shall be recorded--

- (a) allocations;
 - (b) adjustments of allocations;
 - (c) trades;
 - (d) transfers;
 - (e) withdrawals; and
 - (f) surrenders
- of allowances.

11A Provision of information to the Secretary of State

- (1) A person who discharges or releases oil shall provide the Secretary of State with such information as the Secretary of State may reasonably require for the purpose of performing the Secretary of State's functions under these Regulations.
- (2) The permit holder or, if there is no permit holder, the operator shall without delay provide the Secretary of State with information, in such form and in such manner as the Secretary of State may direct, of-
 - (a) an incident resulting in a discharge of oil save in accordance with the terms of, or conditions attached to, a permit;
 - (b) an incident resulting in a release; or
 - (c) any other incident involving oil where there has been, or may be, any significant effect on the environment by means of pollution.
- (3) For the purposes of this regulation "effect" includes any direct, indirect, secondary, cumulative, short, medium or long-term, permanent or temporary, or positive or negative effect.

12 Inspectors

- (1) The Secretary of State may, if she thinks fit, appoint one or more inspectors--
 - (a) to investigate whether the requirements, restrictions or prohibitions imposed by or under these Regulations have been, or are being complied with; or
 - (b) to monitor any discharge or release of oil.
- (2) The inspectors shall report to the Secretary of State in such manner as she may direct.
- (3) An inspector appointed under paragraph (1) may for any of the purposes mentioned in that paragraph and on producing evidence of his appointment--
 - (a) at any reasonable time (or, in a situation which in his opinion may give rise to a risk of significant pollution as a result of the discharge or release of oil, at any time) board any offshore installation;
 - (b) on boarding an offshore installation, take with him any other person authorised by the Secretary of State for the purposes mentioned in paragraph (1) and any equipment or materials that he thinks he may require;
 - (c) make such examination or investigation as he considers necessary (including any examination or investigation of the offshore installation or of the maintenance or monitoring of apparatus on the offshore installation);
 - (d) give a direction requiring that any part of the offshore installation be left undisturbed (whether generally or in particular respects) for so long as is reasonably necessary for the purposes of any examination or investigation under sub-paragraph (c);
 - (e) take such measurements and photographs and make such recordings as he considers necessary for the purpose of any examination or investigation under sub-paragraph (c);
 - (f) take samples of any articles or substances found on the offshore installation or take samples of the atmosphere, land, seabed (including the subsoil thereof) or water in the vicinity of the offshore installation;
 - (g) in the case of any article or substance which he finds on the offshore installation, cause it to be dismantled or subjected to any process or test (but not so as to damage or destroy it unless, in the circumstances of the case, that is necessary);

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- (h) in the case of any such article or substance as is mentioned in sub-paragraph (g), take possession of it and detain it for so long as is necessary for all or any of the following purposes, namely—
 - (i) to examine it and do to it anything which he has power to do under that sub-paragraph;
 - (ii) to ensure that it is not tampered with before his examination of it is completed; and
 - (iii) to ensure that it is available for use as evidence in any proceedings relating to an offence under these Regulations;

- (i) require any person whom he has reasonable cause to believe is able to give any information relevant to any examination or investigation under sub-paragraph (c)--
 - (i) to attend at a place and time specified by the inspector;
 - (ii) to answer (in the absence of any person other than persons whom the inspector may allow to be present and a person nominated to be present by the person upon whom the requirement is imposed) such questions as the inspector thinks fit to ask; and
 - (iii) to sign a declaration as to the truth of his answers;

- (j) require the production of, and inspect and take copies of--
 - (i) any records which by virtue of any provision of any permit are required to be kept; and
 - (ii) any records which he considers it necessary for him to see for the purposes of any examination or investigation under sub-paragraph (c); and

- (k) require any person to afford him such facilities and assistance with respect to any matters or things within that person's control or in relation to which that person has responsibilities as the inspector considers are necessary to enable him to exercise any of the powers conferred on him by this regulation.

- (4) An answer given by a person in compliance with a requirement imposed under paragraph 3(i) shall be admissible in evidence in England and Wales or Northern Ireland against that person in any proceedings or, in Scotland, against that person in criminal proceedings.
- (5) In criminal proceedings in which such person as is mentioned in paragraph (4) is charged with an offence to which this paragraph applies no evidence relating to that person's answer may be adduced and no questions relating to it may be asked by or on behalf of the prosecution unless evidence relating to it is adduced by or on behalf of that person.
- (6) Paragraph (5) applies to any offence other than one under--
 - (a) regulation 16(1)(g)(ii);
 - (b) section 5 of the Perjury Act 1911 (false statements made otherwise than on oath);
 - (c) section 44(2) of the Criminal Law (Consolidation) (Scotland) Act 1995 (false statements made otherwise than on oath); or
 - (d) article 10 of the Perjury (Northern Ireland) Order 1979 (false statutory declarations and other (false unsworn statements)).

- (7) Nothing in this regulation shall be taken to compel the production by any person of a document of which he would, on grounds of legal professional privilege, be entitled to withhold production on an order for disclosure or discovery in an action in the High Court or in the High Court in Northern Ireland or, in relation to Scotland, on an order for the production of documents in an action in the Court of Session.

13 Enforcement notices

(1) Subject to paragraph (2), if the Secretary of State is of the opinion that any person has contravened or is contravening any condition of a permit or is likely to contravene any such condition, the Secretary of State or an inspector appointed by her under regulation 12 may serve on the permit holder a notice which—

- (a) states that the Secretary of State is of the opinion mentioned in paragraph (1);
- (b) specifies the matters which constituted, constitute or, as the case may be, are likely to constitute the contravention;
- (c) specifies the steps that must be taken to remedy or, as the case may be, to prevent the contravention; and
- (d) may specify the period within which those steps must be taken.

(1A) If the Secretary of State is of the opinion that a release or a discharge without a permit has occurred, is occurring, or is likely to occur, the Secretary of State or an inspector appointed under regulation 12 may serve on the permit holder or, if there is no permit holder, the operator, a notice which—

- (a) states that the Secretary of State is of that opinion;
- (b) specifies the matters which constituted, constitute, or are likely to constitute the release or discharge;
- (c) specifies the remedial steps that must be taken; and
- (d) specifies the period within which those steps must be taken.

(1B) The Secretary of State may serve a notice on a permit holder to vary the period within which remedial steps must be taken under an enforcement notice.

(2) Paragraph (1) shall not apply where the permit condition in question relates exclusively to one or more of the trading schemes.

(3) The steps that may be specified under paragraph (1)(c) or (1A)(c) include steps that must be taken to remedy any pollution caused by the contravention, release or discharge.

(4) Where a person to whom an enforcement notice is addressed has failed to take the action required by it within such time as may be specified by it and such a notice has not been revoked, the Secretary of State may herself undertake any action so required and the reasonable costs and expenses of her so doing shall be recoverable as a debt from that person.

(5) A person to whom an enforcement notice is addressed shall afford such assistance as the Secretary of State may reasonably require for the purpose of facilitating the exercise of any powers conferred on the Secretary of State by paragraph (4).

(6) The Secretary of State or an inspector appointed by her under regulation 12 may revoke an enforcement notice.

(7) The exercise by the Secretary of State of any power conferred by paragraphs (1), (1A) or (4) shall be without prejudice to the exercise by her of any other power under any other provision of these Regulations.

14 Prohibition notices

(1) If the Secretary of State is of the opinion that the operation of an offshore installation involves an imminent risk of serious pollution as a consequence of any discharge or release of oil, the Secretary of State or an inspector appointed by her under regulation 12 may serve a notice on the permit holder or, if there is no permit holder, the operator.

(2) A prohibition notice may be served whether or not the risk relates to the contravention of a permit, and may relate to any aspects of the operation of an offshore installation whether or not regulated by the conditions of such a permit.

(3) A prohibition notice--

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- (a) shall state that the Secretary of State is of the opinion mentioned in paragraph (1);
 - (b) shall specify the risk involved in the operation of the offshore installation;
 - (c) shall specify the steps that must be taken to remove it;
 - (ca) may specify the period within which any such steps must be taken; and
 - (d) may direct that any permit shall, until the notice is withdrawn wholly or in part, cease to have effect and where the direction applies to part only of the operation of the offshore installation, it may impose conditions to be observed in carrying on that part of the operation which is authorised under the relevant permit.
- (4) The Secretary of State or an inspector appointed by her under regulation 12 may by notice withdraw a prohibition notice wholly or in part at any time and shall withdraw a notice when the Secretary of State is satisfied that the steps required by the notice have been taken.
- (5) It shall be the duty of the person to whom the prohibition notice is addressed to comply with its terms save to the extent that it is withdrawn wholly or in part.
- (6) The service of a prohibition notice shall be without prejudice to the exercise by any person of any power under any other provision of these Regulations.

15 Appeal to the High Court, Court of Session, or High Court in Northern Ireland

- (1) In this regulation, the expressions "the English area", "the Scottish area" and "the Northern Irish area" shall have the same meanings as in the Civil Jurisdiction (Offshore Activities) Order 1987.
- (2) Subject to paragraph (6), any applicant for a permit, permit holder or operator aggrieved by a decision of the Secretary of State made under these Regulations, may appeal to the court.
- (3) Subject to paragraph (4), the expression, "the court" means--
- (a) in respect of a decision relating to the discharge or release of oil in the English area, the High Court;
 - (b) in respect of a decision relating to the discharge or release of oil in the Scottish area, the Court of Session;
 - (c) in respect of a decision relating to the discharge or release of oil in the Northern Irish area, the High Court in Northern Ireland.
- (4) Where oil is discharged or released, or is to be discharged in more than one of the areas referred to in paragraph (1), any of the courts having jurisdiction in the area or areas where oil is discharged or released, or is to be discharged shall have jurisdiction in relation to the decision in question.
- (5) Unless the court otherwise orders, any decision of the Secretary of State which is the subject of an appeal under paragraph (2) shall remain in force pending a final disposal of that appeal.
- (6) An appeal under this regulation shall be made within 28 days of written notification of the decision in question.

16 Offences

- (1) Subject to paragraphs (2) and (4), a person is guilty of an offence if he--
- (a) contravenes regulation 3(1);
 - (aa) contravenes regulation 3A;
 - (b) fails to comply with the terms of an enforcement notice or a prohibition notice;
 - (c) fails to supply any information required to be supplied by virtue of the terms or conditions of any permit;
 - (d) fails to supply any information required to be supplied by virtue of regulation 11A;

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- (e) wilfully obstructs an inspector appointed under regulation 12;
 - (f) without reasonable excuse, fails to comply with a requirement imposed in pursuance of regulation 12(3), or prevents another person from complying with such a requirement;
 - (g) knowingly or recklessly makes a statement which he knows to be false or misleading in a material particular where such a statement--
 - (i) is made in connection with, or for the purposes of, any application for a permit, the renewal of a permit, the variation of a permit or the transfer of a permit; or
 - (ii) is made for the purposes of satisfying any requirement under these Regulations for the supply of information to the Secretary of State or an inspector appointed by her pursuant to regulation 12.
- (2) Where a person is charged with an offence under paragraph (1)(a) or (1)(aa), it is a defence to prove that the contravention--
- (a) arose as a result of something which could not reasonably have been prevented by him; or
 - (b) subject to paragraph (3), was due to something done as a matter of urgency for the purpose of securing the safety of any person.
- (3) A person does not have the defence provided by paragraph (2)(b) if the court is satisfied--
- (a) that the thing done was not a reasonable step to take in the circumstances; or
 - (b) that it was necessary for the purpose mentioned in that paragraph but the necessity was due to the fault of the defendant.
- (4) The discharge of oil in contravention of any one or more of the terms of or conditions attached to a permit shall not constitute an offence for the purpose of this regulation where the term or condition in question relates exclusively to one or more of the trading schemes.
- (5) A person guilty of an offence under this regulation shall, on summary conviction, be liable to a fine not exceeding the statutory maximum and, on conviction on indictment, to a fine.
- (6) Where an offence under this regulation by a body corporate is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of an offence and shall be liable to be proceeded against and punished accordingly.
- (7) Where the affairs of a body corporate are managed by its members, paragraph (6) shall apply in relation to the acts or defaults of a member in connection with his functions of management as if he were a director of the body corporate.
- (8) Where the commission by any person of an offence under this regulation is due to the act or default of some other person, that other person may be charged with and convicted of the offence by virtue of this paragraph whether or not proceedings for the offence are taken against the first-mentioned person.
- (9) Proceedings for an offence under this regulation may be taken, and the offence may for all incidental purposes be treated as having been committed, in any part of the United Kingdom.
- (10) Section 3 of the Territorial Waters Jurisdiction Act 1878 (restriction on prosecutions) shall not apply to any proceedings for an offence under this regulation.
- (11) Proceedings in England and Wales for an offence under this regulation may be brought only by, or with the consent of, the Secretary of State or the Director of Public Prosecutions.
- (12) Proceedings in Northern Ireland for an offence under this regulation may be brought only by, or with the consent of, the Secretary of State or the Director of Public Prosecutions for Northern Ireland.

17 Service of notices

(1) In this regulation--

"electronic communication" means a communication transmitted--

- (a) by means of an electronic communications network; or
- (b) by other means but while in electronic form; and

"written document" includes an application, a permit, information, data, evidence, a representation or a notice under these Regulations or a copy thereof.

(2) A written document may be sent, given or issued to the intended recipient by--

- (a) delivering it to him; or
- (b) leaving it at his proper address; or
- (c) sending it by post to him at that address.

(3) A written document may be sent, given or issued--

- (a) to a body corporate by being sent, given or issued to its secretary or clerk;
- (b) to a firm (including a Scottish partnership) by being sent, given or issued to a partner in the firm or to a person having management or control of the partnership business;
- (c) to an unincorporated body by being sent, given or issued to a member of its governing body.

(4) For the purposes of this regulation and of section 7 of the Interpretation Act 1978 in its application to this regulation, the proper address (except in a case falling within paragraph (7) of this regulation) of--

- (a) the Secretary of State is the address of the principal office of the holder of the office of Secretary of State who for the time being exercises the functions of the Secretary of State under these regulations;
- (b) a body corporate is the address of its registered or principal office;
- (c) a firm (including a Scottish partnership) or unincorporated body is the address of its principal office;
- (d) any other person is his last known address.

(5) Where, by virtue of the above provisions of this regulation, the proper address of the intended recipient of a written document is outside the United Kingdom, references in this regulation to the proper address of--

- (a) a body corporate, firm or unincorporated body include its principal office (if any) in the United Kingdom;
- (b) any other person includes his last known address in the United Kingdom unless he is known no longer to have an address in the United Kingdom).

(6) If the person to whom a written document is to be sent, given or issued has furnished the person by whom the written document is to be sent, given or issued with an address pursuant to any provision of these Regulations, that address shall also be treated for the purpose of this regulation as his proper address.

(7) Where a written document is to be sent, given or issued by means of an electronic communication, the proper address of any person includes the number or address which he has indicated is to be used by him for receipt of the communication.

(8) This regulation is without prejudice to any other lawful method of giving or serving notice.

18 Disapplication or consequential modifications of enactments

(1) Sections 1, 2, 3, 6 and 23 of the Prevention of Oil Pollution Act 1971 shall not apply to any emission of oil which is a discharge or release for the purposes of these Regulations.

Unofficial consolidated text of the Offshore Petroleum Activities (Oil Pollution Prevention and Control) Regulations 2005 – please consult www.legislation.gov.uk for the authoritative unconsolidated texts of the relevant statutory instruments.

(2) The Deposits in the Sea (Exemptions) Order 1985 is amended as follows--

(a) paragraph 4(a) of the Schedule is repealed; and

(b) after paragraph 4(b) insert--

"(c) of a kind regulated under The Offshore Petroleum Activities (Oil Pollution Prevention and Control) Regulations 2005."

19 Amendment of the Offshore Combustion Installations (Prevention and Control of Pollution) Regulations 2001

The Offshore Combustion Installations (Prevention and Control of Pollution) Regulations 2001 are amended as set out in Schedule 1 to these Regulations.

20 Amendment of the Offshore Chemicals Regulations 2002

The Offshore Chemicals Regulations 2002 are amended as set out in Schedule 2 to these Regulations.

Malcolm Wicks

Minister for Energy and E-Commerce,

Department of Trade and Industry

21st July 2005

[Schedules and Explanatory Note omitted]