

2006 No. 133

ENVIRONMENTAL PROTECTION

WATER

**The Water Environment (Oil Storage) (Scotland) Regulations
2006**

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| <i>Made</i> - - - - | <i>8th March 2006</i> |
| <i>Laid before the Scottish Parliament</i> | <i>10th March 2006</i> |
| <i>Coming into force</i> - - | <i>1st April 2006</i> |

The Scottish Ministers, in exercise of the powers conferred on them by sections 20 and 36(2) and (3) of, and Schedule 2 to, the Water Environment and Water Services (Scotland) Act 2003(a), and of all other powers enabling them in that behalf, after consulting the persons specified in section 21(1) of that Act, and having published a draft of the proposed general binding rules in accordance with section 21(2), having had regard to the representations received about those proposed rules in accordance with section 21(4) of that Act, and having complied with the requirements of section 21 of that Act, hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Water Environment (Oil Storage) (Scotland) Regulations 2006, and come into force on 1st April 2006.

Interpretation

2.—(1) In these Regulations—

“the Act” means the Water Environment and Water Services (Scotland) Act 2003;

“container” means a single or double skinned fixed tank, a drum, a mobile bowser or (even if not connected to fixed pipe or fixed pipework) an intermediate bulk container;

“drum” means an oil drum or similar container used for storing oil;

“EEA State” means a member State, Norway, Iceland or Liechtenstein;

“fixed tank” includes an intermediate bulk container which is connected to fixed pipework;

“oil” means any kind of oil and includes petrol, diesel, waste and vegetable and plant oil, but does not include uncut bitumen;

“premises” includes land and mobile plant, but does not include vehicles or vessels;

“the principal Regulations” means the Water Environment (Controlled Activities) (Scotland) Regulations 2005(b);

(a) 2003 asp 3; amended by section 66 of, and paragraph 6 of Schedule 2 to, the Anti Social Behaviour Etc (Scotland) Act 2004 (asp 8).

(b) S.S.I. 2005/348.

“private dwelling” means any part of a building used or intended to be used as a dwelling;

“secondary containment system” means a drip tray, an area surrounded by a bund or catchpit, or any other system for preventing oil which is no longer in its container from escaping from the place where it is stored.

(2) Words and expressions used in these Regulations and not defined in paragraph (1) have the same meaning as in the principal Regulations.

(3) In these Regulations, any requirement for any container, drum, fixed tank or other product to comply with a specified standard is satisfied by compliance with:

- (a) a relevant standard or code of practice of a national standards body or equivalent of any EEA State or the Republic of Turkey;
- (b) any relevant international standard recognised for use as a standard by any EEA State or the Republic of Turkey; or
- (c) a technical specification or code of practice which, whether mandatory or not, is recognised for use as a standard by a public authority of any EEA State or of the Republic of Turkey,

in so far as the standard, code of practice, international standard or technical specification in question enables the objectives of these Regulations to be met in an equivalent manner.

Application of the principal Regulations

3.—(1) The activities specified in regulations 4 to 6 are controlled activities within the meaning of regulation 4 of the principal Regulations and, subject to paragraph (2) and regulation 7, the principal Regulations apply to those activities accordingly.

(2) A controlled activity specified in regulations 4 to 6 is deemed to be authorised under regulation 7 of the principal Regulations if it is carried on in accordance with the appropriate provisions of these Regulations.

Storage in portable containers

4. Where oil is stored in any portable container with a storage capacity of less than 200 litres, the container must be of sufficient strength and structural integrity so as to ensure that it is unlikely to burst or leak in its ordinary use.

Private dwellings

5.—(1) Where oil, used solely to serve a fixed combustion appliance installation providing space heating or cooking facilities, is stored in a container with a capacity of 2,500 litres or less on premises used wholly or mainly as a private dwelling, the requirements of paragraph (2) must be met.

(2) A container to which paragraph (1) refers which is installed or altered must comply with the requirements of any applicable regulations under the Building (Scotland) Act 2003(a)

Storage of oil - general

6.—(1) The storage of oil on premises other than—

- (a) in circumstances provided for in regulations 4 and 5;
- (b) in any container which is situated wholly underground (unless the container is situated wholly within a building underground);

(a) 2003 asp 8.

- (c) where the oil is stored in accordance with–
 - (i) an authorisation under Part I of the Environmental Protection Act 1990(a) in respect of a Part A process falling within the description set out in Schedule 1 to the Environmental Protection (Prescribed Processes and Substances) Regulations 1991(b); or
 - (ii) a permit under the Pollution Prevention and Control (Scotland) Regulations 2000(c) in respect of a Part A activity as defined in Schedule 1 to those Regulations; or
- (d) premises used as an oil distribution depot for the onward distribution of oil to other places,

shall be carried out in accordance with paragraphs (2) to (8).

(2) The oil stocks shall be stored in a container which is of sufficient strength and structural integrity, and has been installed so as to ensure that it is unlikely to burst or leak in its ordinary use.

(3) The container must be situated within a secondary containment system which satisfies the following requirements–

- (a) subject to paragraph (6), it must have a capacity of not less than 110% of the container's storage capacity or, if there was more than one container within the system, of not less than 110% of the largest container's storage capacity, or 25% of the aggregate storage capacity, whichever is greater;
- (b) it must be positioned, or other steps must be taken, so as to minimise any risk of damage by impact so far as is reasonably practicable;
- (c) its base and walls must be impermeable to water and oil;
- (d) its base and walls must not be penetrated by any valve, pipe or other opening which is used for draining the system; and
- (e) if any fill pipe, or draw off pipe, penetrates its base or any of its walls, the junctions of the pipe with the base or the walls must be adequately sealed to prevent oil escaping from the system.

(4) Any valve, filter, sight gauge, vent pipe or other equipment ancillary to the container (other than a fill pipe or draw off pipe or a pump) must be situated within the secondary containment system.

(5) If the connection point to a fill pipe is not within the secondary containment system, a drip tray must be used to catch any oil spilled when the container is being filled with oil.

(6) Where any drum is used for the storage of the oil in conjunction with a drip tray as a secondary containment system, it is sufficient if the tray has a capacity of not less than 25% of–

- (a) the drum's storage capacity; or
- (b) if there is more than one drum used at the same time with the tray, the aggregate storage capacity of the drums.

(7) Where a fixed tank is used for storing oil the following requirements must be satisfied–

- (a) any sight gauge must be properly supported and fitted with a valve which closes automatically when not in use;
- (b) any fill pipe, draw off pipe or overflow pipe must be positioned or other steps must be taken, so as to minimise any risk of damage by impact so far as is reasonably practicable and–
 - (i) if above ground, must be properly supported;

(a) 1990 c.43; amended by the Environment Act 1995 (c.25), the Pollution Prevention and Control Act 1999 (c.24), the Anti-Social Behaviour (Scotland) Act 2004 (asp 8) and the Pollution Prevention and Control (Scotland) Regulations 2000 (S.S.I. 2000/323).

(b) S.I. 1991/472; amended by S.I. 1991/836, 1992/614, 1993/2405, 1994/1271, 1995/3247 and 1998/767; and S.S.I. 2000/323, 2004/26 and 2004/512.

(c) S.S.I. 2000/323; amended by paragraph 7 of Schedule 2 to the Anti-Social Behaviour etc. (Scotland) Act 2004 (asp 8), S.I. 2002/493, 2003/146, 170, 221, 235 and 411, 2004/26, 110, 112, 512 and 2005/101.

- (ii) if underground–
 - (aa) must have no mechanical joints, except at a place where it is accessible for inspection by removing a hatch or cover;
 - (bb) must be adequately protected from physical damage;
 - (cc) must have adequate facilities for detecting any leaks;
 - (dd) if fitted with a leakage detection device which is continuously to monitor for leaks the detection device must be maintained in working order and tested at the appropriate intervals, and at least every 5 years, to ensure that it works properly; and
 - (ee) if not fitted with a leakage detection device, must be tested for leaks before it is first used and further tests for leaks must be performed in the case of pipes which have mechanical joints, at least once in every 5 years, and in other cases, at least once in every 10 years; and
 - (iii) if made of materials which are liable to corrosion, must be adequately protected against corrosion, and pipes permeable to hydrocarbon vapours must not be used;
 - (c) the tank must be fitted with an automatic overfill prevention device (which may include an alarm sounding device) if the filling operation is controlled from a place where it is not reasonably practicable to observe the tank or any vent pipe;
 - (d) where a screw fitting or other fixed coupling is fitted, it must be maintained in good condition and used whenever the tank is being filled with oil;
 - (e) where oil from the tank is delivered through a flexible pipe which is permanently attached to the container or delivery pump–
 - (i) the pipe must be fitted with a tap or valve at the delivery end which closes automatically when not in use;
 - (ii) the tap or valve must not be capable of being fixed in the open position unless the pipe is fitted with an automatic shut off device;
 - (iii) the pipe must be enclosed in a secure cabinet which is locked shut when not in use and is equipped with a drip tray, or the pipe must–
 - (aa) have a lockable valve where it leaves the container which is locked shut when not in use, and
 - (bb) be kept within the secondary containment system when not in use;
 - (f) any pump must be–
 - (i) fitted with a non-return valve in its feed line;
 - (ii) positioned or other steps must be taken, so as to minimise any risk of damage so far as is reasonably possible; and
 - (iii) protected from unauthorised use; and
 - (g) any permanent vent pipe, tap or valve through which oil can be discharged from the tank to the open must satisfy the following requirements–
 - (i) it must be situated within the secondary containment system;
 - (ii) it must be arranged so that any oil discharged from the tank other than to its intended destination is contained within the system; and
 - (iii) in the case of a tap or valve, it must be fitted with a lock and locked shut when not in use.
- (8) Where a mobile bowser is used for storing oil, it shall satisfy the following requirements–
- (a) any tap or valve permanently fixed to the bowser through which oil can be discharged to the open must be fitted with a lock and locked shut when not in use;
 - (b) where oil is delivered through a flexible pipe which is permanently attached to the mobile bowser–

- (i) the pipe must be fitted with a manually operated pump or a valve at the delivery end which automatically closes when not in use;
 - (ii) the pump or valve must be provided with a lock and locked shut when not in use; and
 - (iii) the pipe must be fitted with a lockable valve at the end where it leaves the container and must be locked shut when not in use; and
- (c) any sight gauge must be secured to the mobile bowser and be fitted with a valve or tap which must be locked in the shut position when not in use.

Transitional provisions

7.—(1) Subject to paragraphs (2) and (3), where an activity referred to in regulations 4 to 6 is—

- (a) being carried on immediately before 1st April 2006, the principal Regulations and these Regulations do not apply to it until 1st April 2010 unless it is being carried on less than,
 - (i) 10 metres from any surface water or wetlands, or
 - (ii) 50 metres from any well or borehole,
 in which case the principal Regulations and these Regulations apply to it on 1st April 2008;
- (b) commenced on or after 1st April 2006 but before 1st October 2006, the principal Regulations and these Regulations do not apply to it until 1st October 2006.

(2) Regulation 28 of the principal Regulations applies to any such activity from the date on which these Regulations come into force.

(3) If a notice is served under regulation 28 of the principal Regulations in respect of any such activity and is not complied with, unless the time limit relevant to that activity under paragraph (1) expires first, the provisions of the principal Regulations and these Regulations apply to that activity from whichever of the following is the later—

- (a) the expiry of the time limit imposed in the notice, or
- (b) if there is an appeal against the notice, the date on which the appeal is determined or withdrawn.

Amendment of the Control of Pollution (Silage, Slurry and Agricultural Fuel Oil) (Scotland) Regulations 2003

8.—(1) The Control of Pollution (Silage, Slurry and Agricultural Fuel Oil) (Scotland) Regulations 2003(a) are amended as follows.

(2) In regulation 1—

- (a) in paragraph (2)—
 - (i) omit the definition of “fuel oil”; and
 - (ii) in the definition of relevant substance, omit the words “fuel oil”; and
- (b) in paragraph (3), omit the words “, fuel storage tank”.

(3) Regulation 4 and Schedule 3 are omitted.

(4) In regulation 5—

- (a) between the words “silo” and “slurry”, for “,” substitute “or”; and
- (b) omit the words “or fuel storage tank or container”.

(5) In regulation 10—

- (a) between the words “silo” and “slurry” for “,” substitute “or”; and
- (b) omit the words “or, as the case may be, fuel storage area”.

(a) S.S.I. 2003/531.

(6) In regulation 11, omit “4(1)”.

St Andrew’s House,
Edinburgh
8th March 2006

RHONA BRANKIN
Authorised to sign by the Scottish Ministers

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, made under sections 20 and 36(2) and (3) of, and Schedule 2 to, the Water Environment and Water Services (Scotland) Act 2003 (asp 3) (“the Act”), make provision for or in connection with regulating oil storage activities for the purposes of protection of the water environment.

The Regulations—

- (a) define terms (regulation 2),
- (b) treat all activities specified in regulations 4 to 6 as “controlled activities” within the meaning of regulation 4 of the Water Environment (Controlled Activities) (Scotland) Regulations 2005 (regulation 3(1)); and deem them to be authorised under regulation 7 of these Regulations if carried on in accordance with these Regulations (regulation 3(2)),
- (c) impose requirements as to the construction of portable containers (regulation 4),
- (d) impose requirements as to the installation and alteration of certain containers for storage of oil used in private dwellings (regulation 5),
- (e) impose detailed requirements for the storage of oil on premises other than in accordance with regulation 4 and 5, underground containers, oil storage authorised under Part I of the Environmental Protection Act 1990 or subject to a permit under the Pollution Prevention and Control (Scotland) Regulations 2000 and oil distribution depots (regulation 6),
- (f) make transitional provisions for activities carried on immediately before their coming into force, for activities commenced on or after that date and before 1st October 2006 and for activities undertaken less than 10 metres from any surface water or wetlands and less than 50 metres from any well or borehole (regulation 7),
- (g) make certain consequential amendments to the Control of Pollution (Silage, Slurry and Agricultural Fuel Oil) (Scotland) Regulations 2003 (regulation 8).

These Regulations were notified in draft to the European Commission in accordance with Directive 98/34/EC, as amended by Directive 98/48/EC.

A Regulatory Impact Assessment has been prepared in connection with these Regulations. A copy may be obtained from the Water Pollution Control Team, Scottish Executive Environment and Rural Affairs Department, Victoria Quay, Leith, EH6 6QQ.

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