

<p>Title: The Offshore Petroleum Activities (Oil Pollution Prevention and Control) Regulations 2005</p> <p>PIR No: DESNZ001(PIR)-24-OPRED</p> <p>Original IA/RPC No: N/A</p> <p>Lead department or agency: Department for Energy Security and Net Zero</p> <p>Other departments or agencies: Click here to enter text.</p> <p>Contact for enquiries: Andrew Taylor; andrew.taylor@energysecurity.gov.uk; 01224 254080</p>	Post Implementation Review
	Date: 25/01/2024
	Type of regulation: Domestic
	Type of review: Statutory
	Date measure came into force: 20/08/2005
	Recommendation: Keep
RPC Opinion: Choose an item.	

1. What were the policy objectives of the measure? (Maximum 5 lines)

The Offshore Petroleum Activities (Oil Pollution Prevention and Control) Regulations 2005 (“the 2005 OPPC Regulations”) were introduced to replace and update the limited powers available under the Prevention of Oil Pollution Act 1971 (“POPA”). The POPA definitions of oil did not capture all oils that were discharged offshore, nor were there effective powers to monitor, investigate and enforce against all oil discharges. The 2005 OPPC Regulations also aimed to effectively implement OSPAR Recommendation 2001/1 for the Management of Produced Water from Offshore Installations, introduce a permitting regime in line with other UK regulations and provide a wider range of powers for Offshore Environmental Inspectors to monitor and investigate oil discharges, including accidental oil spills.

2. What evidence has informed the PIR? (Maximum 5 lines)

The review considered evidence from an industry survey carried out in July - August 2023. In addition, the review considered data already held by the Department in terms of costs, inspection and enforcement data. The survey asked about the key policy objectives of the 2005 OPPC Regulations as well as including more general questions about the Regulations’ provisions and their effectiveness. The survey was notified via OPRED’s communications page to which industry stakeholders are signed up. They were given seven weeks to respond to the survey and responses were then analysed to extract the key themes within the responses. Of the 35 appointed operators on the United Kingdom Continental Shelf, five operators responded to the survey, representing 18% of the offshore installations with life oil discharge permits.

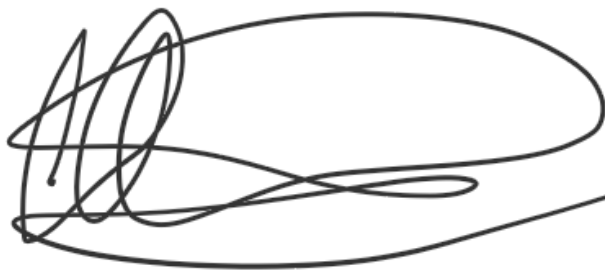
3. To what extent have the policy objectives been achieved? (Maximum 5 lines)

Overall, the policy objectives have been achieved. The PIR confirmed that all relevant oils discharged are regulated by the legislation. The UK achieved a 24% reduction in oil discharged to sea by 2006 compared to the 2000 baseline, exceeding the OSPAR goal of a 15% reduction, though a Trading Scheme was not required to achieve this. The expanded inspection powers have been used extensively since their introduction and the majority of survey respondents agreed that they remained appropriate.

Sign-off for Post Implementation Review: Chief economist/Head of Analysis and Minister

I have read the PIR and I am satisfied that it represents a fair and proportionate assessment of the impact of the measure.

Signed: **The Rt. Hon. Graham Stuart MP, Minister of State for Energy Security and Net Zero**

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

Date: **25/01/2024**

Further information sheet

Please provide additional evidence in subsequent sheets, as required.

4. What were the original assumptions? (Maximum 5 lines)

The original assumptions were that in the absence of the 2005 OPPC Regulations there would be limited legal incentive for operators to look for further opportunities to reduce the volume of oil discharged to the marine environment and that the UK might not meet its international commitments. The combination of a formal application, assessment and permitting procedure for oil discharges and a Trading Scheme to reduce the discharges of dispersed oil in produced water would bring a more robust approach to the control of oil discharges.

5. Were there any unintended consequences? (Maximum 5 lines)

Most of the evidence gathered indicated that there were no unintended consequences from the introduction of the 2005 OPPC Regulations, though there was one industry response that commented that the Regulations were interpreted too broadly resulting in time/effort spent on items which carry almost no risk of pollution.

6. Has the evidence identified any opportunities for reducing the burden on business? (Maximum 5 lines)

The review identified there were some opportunities to reduce the administrative burden in terms of the annual review of life permits which could be undertaken every two or three years instead. This would reduce the time spent by both industry and OPRED reviewing annual forecast updates and save costs to industry. Most of the feedback from the industry survey agreed that the current 2005 OPPC Regulations and permitting regime remained appropriate.

7. How does the UK approach compare with the implementation of similar measures internationally, including how EU member states implemented EU requirements that are comparable or now form part of retained EU law, or how other countries have implemented international agreements? (Maximum 5 lines)

The 2005 OPPC Regulations were introduced to, in part, implement OSPAR measures rather than EU regulations. There are no EU measures for the discharge of oil to sea from offshore oil and gas installations, however there are EU measures implemented into UK law for the discharge to sea from terrestrial sources. Discharge limits for terrestrial discharges are stricter due to the greater sensitivities inshore compared to offshore waters. All OSPAR contracting parties with an offshore oil and gas industry met, or exceeded, the 15% reduction target by 2006 except for one Contracting Party where this wasn't achieved until 2010. There is an equivalent approach across all OSPAR Contracting Parties with an offshore oil and gas industry as they have all implemented a permitting regime for the control of oil discharged to sea.

Annex

Supporting Information to the Post Implementation Review (PIR) on the Offshore Petroleum Activities (Oil Pollution Prevention and Control) Regulations 2005

1. Policy Objectives

The Offshore Petroleum Activities (Oil Pollution Prevention and Control) Regulations 2005 (“the 2005 OPPC Regulations”) were introduced to replace and update the limited powers available under the Prevention of Oil Pollution Act 1971 (“POPA”). The POPA definitions of oil did not capture all oils that were discharged offshore, nor were there effective powers to monitor, investigate and enforce against all oil discharges.

Furthermore, by virtue of its status as a Contracting Party to the Oslo / Paris Convention for the Protection of the Marine Environment of the North-East Atlantic (OSPAR), the United Kingdom was required to implement OSPAR Recommendation 2001/01. This meant the UK had to meet an OSPAR target relating to the quantity of oil discharged in produced water offshore representing a 15% reduction in the quantity discharged in 2006 compared to 2000. To minimise the costs of achieving this reduction, the UK proposed to introduce a Trading Scheme for dispersed oil in produced water discharges. This proposal had the full support of the United Kingdom offshore oil and gas industry and the 2005 OPPC Regulations enabled the creation of a Trading Scheme as well as addressing the limitations of POPA.

In 2011 amending Regulations were introduced to address a few minor regulatory areas. The amending Regulations included changes to:

- reflect the devolution settlement for Wales,
- to streamline the procedure for renewing or transferring oil discharge permits,
- to make the regulatory framework more consistent with the Offshore Chemicals Regulations 2002 which were also amended in 2011, and
- extend the scope of the 2005 OPPC Regulations to include emissions of oil from pipelines by amending the definition of offshore installation.

Details on the background to the introduction of the 2005 OPPC Regulations are provided in the Explanatory Memorandum (this also includes the Impact Assessment) which is available at: <https://www.legislation.gov.uk/ukxi/2005/2055/memorandum/contents>.

Details of the 2011 OPPC (Amendment) Regulations which amended the 2005 OPPC Regulations are provided in the Explanatory Memorandum which is available at: <https://www.legislation.gov.uk/ukxi/2011/983/memorandum/contents>.

2. Supporting evidence

The review considered evidence from an industry survey carried out in July - August 2023. In addition, the review considered data already held by the Department in terms of costs, oil discharges, inspections and enforcement data.

The review considered evidence from the following:

- Explanatory Memorandum to the Offshore Petroleum Activities (Oil Pollution Prevention and Control) Regulations 2005 No. 2055.

- Explanatory Memorandum to the Offshore Petroleum Activities (Oil Pollution Prevention and Control) (Amendment) Regulations 2011 No. 983.
- Industry survey undertaken from 10 July - 25 August 2023.
- Industry costs based on returns received from the survey.
- OPRED¹ costs for OPPC permits for period 2021 - 2023.
- Oil discharge data over the period 2005 - 2022.
- Inspection and investigation data over the period 2013 - 2022.
- Enforcement data over the period 2006 - 2022.

The survey asked about the key policy objectives of the 2005 OPPC Regulations (as amended) [“the 2005 OPPC Regulations” or “the Regulations”] as well as including more general questions about the Regulations’ provisions and their effectiveness. The survey was notified via OPRED’s communications page to which industry stakeholders are signed up. They were given seven weeks to respond to the survey and responses were then analysed to extract the key themes within the responses.

The Regulations apply to all 170 UK offshore production installations currently operating on the United Kingdom Continental Shelf (UKCS), whether they make a discharge of oil or not, as there are provisions regarding the prohibition of releases and general inspection and enforcement sections. Of the 170 production installations, 94 currently hold OPPC life permits for their ongoing operations.

Responses to the survey were limited with just five responding companies of the 35 appointed installation operators², which represents 14% of the total number of installation operators on the UKCS. Those 5 installation operators operate 29 production installations between them representing 17% of the UKCS total and 17 OPPC life permits for their installations, representing 18% of the total.

In addition to OPPC life permits, OPRED also permits time limited oil discharge activities via OPPC term permits. In 2022, 150 such permits were issued of which 27 were issued to survey respondents, accounting for 20% of the total.

Given the relatively low response rate, the views expressed may not be fully representative of the industry as a whole, however it could be that the low response rate reflects a general acceptance that the regulations are fit for purpose or at least that industry is not dissatisfied enough to make comment. It is not clear whether a longer response time would have provided a greater response rate as industry was given 5-6 weeks to respond and had had significant warning that the survey was coming.

The relatively low response rate is, however, not dissimilar to other PIR’s undertaken by OPRED. The Offshore Combustion Installations (Pollution Prevention and Control) Regulations 2013 undertaken in 2018 only had an 18% response rate, though with a much shorter period in which to respond.

3. Were Policy Objectives Achieved

Overall, the policy objectives have been achieved.

¹ Offshore Petroleum Regulator for Environment and Decommissioning (OPRED) is part of the Department for Energy Security and Net Zero. OPRED is responsible for regulating environmental and decommissioning activity for offshore oil and gas operations, including carbon capture and storage operations, on the United Kingdom Continental Shelf.

² Counts various subsidiaries of parent organisations as 1 company.

There were several policy objectives for introducing the 2005 OPPC Regulations. These were:

- a. To update the definition of oil to ensure that all oil discharged to sea was regulated under the 2005 OPPC Regulations except where they were regulated by other regulations. For example, some oil-based drilling fluids are regulated by the Offshore Chemicals Regulations 2002, while some oils from ships bilges are regulated by the Merchant Shipping (Prevention of Oil Pollution) Regulations 2019.

The survey responses indicated that all oils were appropriately covered by the Regulations and / or that no oil or hydrocarbons were being discharged that were excluded from the definition.

- b. To introduce a system for the issue of permits for oil discharges to replace the current exemptions issued under POPA. The introduction of oil discharge permits would bring management of those oil discharges which cannot be reasonably avoided into line with similar approaches used to control the use and discharge of chemicals under the Offshore Chemicals Regulations 2002 and atmospheric emissions under the Offshore Combustion Installations (Prevention and Control of Pollution) Regulations 2001³.

From the survey responses, four of the five respondents agreed or strongly agreed that the current system of oil discharge permitting controls or limits the amount of oil being discharged to sea from offshore installations.

- c. To introduce more wide-ranging powers for OPRED's Offshore Environmental Inspectors to monitor and investigate oil discharges, including accidental oil spills (releases). The powers that were available under POPA to monitor and investigate oil discharges were deemed to be inadequate since the definition of oil did not cover all the types of oil produced or used offshore. Consequently, the scope for effective control of oil discharges was limited. Powers to enforce remedial action or to pursue prosecutions were also not as rigorous as they needed to be. The 2005 OPPC Regulations adopted a more robust approach to avoid discharges, whilst retaining flexibility to deal with the discharges that cannot be reasonably avoided.

From the survey responses, four of the five respondents agreed or strongly agreed that the powers of inspectors remained appropriate for enforcing the 2005 OPPC Regulations. The one respondent that disagreed (representing two installations) commented that powers may be appropriate provided they are used consistently and proportionately, and targeted to areas that present an environmental risk.

Since the introduction of the powers, inspection activity under the 2005 OPPC Regulations forms a major part of most inspections with investigations under the Regulations averaging a quarter of all OPRED's formal investigations annually over the last 10 years. In addition, since 2006, over half of all OPRED's Enforcement Notices and all Prohibition Notices have been served under the Regulations and over 80% of prosecutions since 2006⁴ have been in relation to criminal offences under the 2005 OPPC Regulations. Proportionately the number of prosecutions taken under the 2005 OPPC Regulations has declined since the introduction of the

³ The Offshore Combustion Installations (Prevention and Control of Pollution) Regulations 2001 were replaced by the Offshore Combustion Installations (Pollution Prevention and Control) Regulations 2013.

⁴ OPRED has reported 14 cases for prosecution since 2006.

Regulations compared to before their introduction⁵, which may suggest they have acted as a deterrent; however, the sample size is relatively small to be sure.

- d. By virtue of its status as a Contracting Party to the Oslo / Paris Convention for the Protection of the Marine Environment of the North-East Atlantic (OSPAR), the United Kingdom was required to implement OSPAR Recommendation 2001/01 so as to meet an OSPAR target for a 15% reduction in the quantity of oil discharged in produced water in 2006 compared to 2000. In order to minimise the costs of achieving this reduction, the UK proposed to introduce a Trading Scheme for dispersed oil in produced water discharges. The proposal had the full support of the UK offshore oil and gas (“hydrocarbons”) industry and the 2005 OPPC Regulations provided for powers to create a Trading Scheme.

The UK Trading Scheme was created under the Regulations in 2006 but the Scheme was subsequently revoked in June 2008 following a consultation with the offshore hydrocarbons industry. The underlying reason for revoking the UK Trading Scheme was the inherent complexity that was associated with operating the Scheme which, in reality, did not lead to any further substantive tangible benefits in terms of reducing / controlling produced water discharges over and above those that could be more directly achieved through the permitting regime and related conditions attached to permits established under the 2005 OPPC Regulations.

The UK met the OSPAR 15% reduction target in 2006 (an overall 24% reduction was achieved⁶) through a combination of decreases in produced water production on the UKCS, a reduction in the quantity of produced water discharged (14%) and OSPAR introducing a change to the way dispersed oil was analysed.

From the survey responses, all agreed that the revocation of the Trading Scheme was the correct decision at the time. There were mixed views on any suggestion on reintroducing a Trading Scheme. No respondents suggested that a Trading Scheme should be reintroduced.

2011 Amendments

The Offshore Petroleum Activities (Oil Pollution Prevention and Control) (Amendment) Regulations 2011 (“the 2011 OPPC (Amendment) Regulations”) were introduced to address a few minor regulatory areas. The 2011 OPPC (Amendment) Regulations included changes to:

- a. Reflect the devolution settlement for Wales.

In this context, the 2005 OPPC Regulations were amended by the 2011 OPPC (Amendment) Regulations to reflect the transfer of responsibility for most pollution prevention and control matters to the Welsh Ministers by the National Assembly for Wales (Transfer of Functions) Order 2005 and section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006. The amendments make clear that the regulatory requirements only apply within a ‘relevant area’ which extends to the territorial sea adjacent to Wales but excludes the first three miles of those waters. As no oil and gas operations have subsequently been undertaken in Welsh controlled waters, this amendment has had no impact.

- b. to streamline the procedure for renewing or transferring permits,

⁵ 8 prosecutions in 6 years prior to the Regulations coming into effect compared with 14 in the 17 years subsequently.

⁶ Sourced from data provided by UK to OSPAR on an annual basis.

Changes were made by the 2011 OPPC (Amendment) Regulations to simplify the consents process for renewing and varying permits or transferring them to new permit holders. This has happened a number of times since the introduction of the amendments and has worked smoothly.

- c. to make the regulatory framework more consistent with the Offshore Chemical Regulations 2002, which were also amended in 2011.

The 2011 OPPC (Amendment) Regulations made a number of minor amendments to the 2005 OPPC Regulations to create greater consistency with the Offshore Chemical Regulations 2002. The details of these changes are set out in sections 7.2 – 7.8 of the Explanatory Memorandum to the 2011 OPPC (Amendment) Regulations. There was little impact from these changes and creating greater distinction between discharges (planned emissions) and releases (accidental spills) has provided additional clarity with industry in reporting breaches to planned discharges (non-compliances) and reporting releases (spill reporting).

- d. extended the scope of the 2005 OPPC Regulations to include emissions from pipelines by amending the definition of offshore installation.

The 2005 OPPC Regulations defined 'offshore installation' to have the same meaning as in section 44 of the Petroleum Act 1998. It was identified that this definition excluded certain types of pipes (essentially those which do not form part of an offshore installation). Consequently, the Department decided that it was necessary to revise the 2005 OPPC Regulations to ensure that all pipelines were brought within scope. Therefore, the 2011 OPPC (Amendment) Regulations extended the scope of the 2005 OPPC Regulations to include such pipelines, which has allowed additional controls to be put in place to minimise discharges when undertaking pipeline flushing or other intervention activities.

No Impact Assessment was deemed necessary for the 2011 OPPC (Amendment) Regulations as it was believed that they would not add to the cost impact on business. This was agreed with industry at the time.

Next Steps:

Following OPRED's review it is concluded that the original objectives were achieved and therefore remain appropriate and there are little grounds for further amending the 2005 OPPC Regulations ("the Regulations") in the short-term insofar as they implement the original objectives.

However, operationally there are areas where the Regulations could be improved should an opportunity present itself. While the Regulations are quite detailed with regards to applying for, varying, transferring and surrendering a permit, powers of inspectors, enforcement and offences, there is little detail in the Regulations regarding prevention of pollution or control of operations to minimise discharges as might be found in other environmental regulations. Opportunities to make further amendments would depend on parliamentary time and other OPRED legislative priorities.

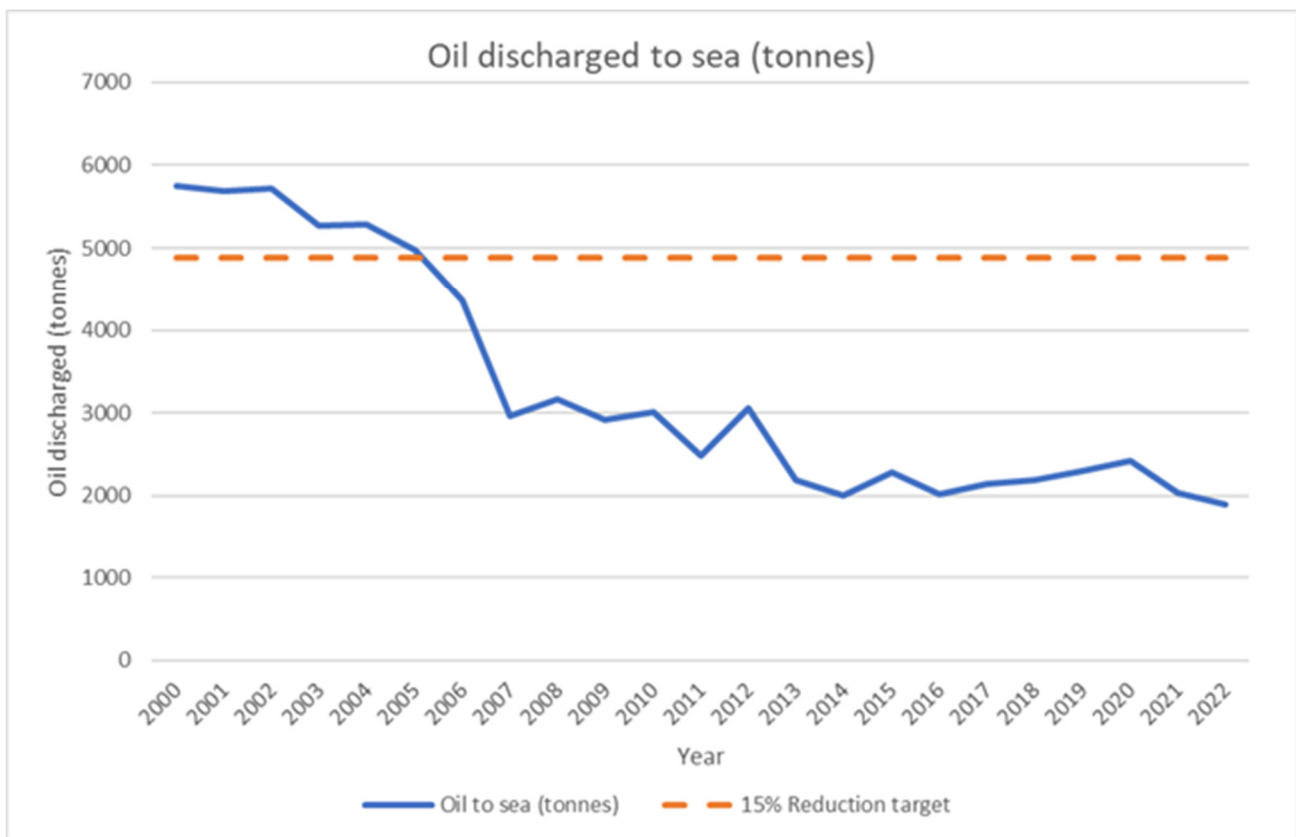
Further Information

4. Original Assumptions

Reduction in oil discharges

The original assumptions were that in the absence of the 2005 OPPC Regulations (“the Regulations”) there would be limited legal incentive for operators to look for further opportunities to reduce the volume of oil discharged to the marine environment and that the UK might not meet its international commitments. The combination of a formal application, assessment and permitting procedure for oil discharges and a Trading Scheme to reduce the discharges of dispersed oil in produced water would bring a more robust approach to the control of oil discharges.

Since the introduction of the Regulations, oil discharges from offshore installations have declined over the intervening period, though with some annual variation, and the UK exceeded the OSPAR target for a 15% reduction in the quantity of oil discharged in produced water without the need for a Trading Scheme. While the permitting regime may have helped contribute to this reduction, a change to the analytical method introduced by OSPAR and the ongoing decline since 2000 in total produced water generated from offshore production operations were also likely to have made significant contributions towards the reduction.



Costs

Operator Costs

There were assumptions in the Impact Assessment (IA) regarding the costs of introducing the 2005 OPPC Regulations (“the Regulations”) with regards to permitting. Prior to the entry into force of the Regulations in 2005, there were 44 operators of offshore installations who already had to seek exemptions for some, but not all, oil discharges under POPA and it was assumed that the establishment via the Regulations of a permitting regime - requiring operators to apply for, maintain and request variations to, a permit (which had associated expenditure related to

manpower plus other resources) - would not represent the imposition of any major additional costs to the offshore hydrocarbons sector.

At the time that the 2005 OPPC Regulations were introduced, OPRED (then part of the Department of Trade and Industry) had a simplified charging system whereby the costs recovered through fees were divided equally across four different regulations and the number of permits in place for each of those regulations. The proportion of OPRED's costs assigned to each of the four regulations differed, with the greater costs assigned to the Offshore Chemicals Regulations 2002 and with lesser costs assigned to permits granted under the 2005 OPPC Regulations. In 2015, OPRED changed its cost recovery to a time writing approach for various activities related to each regulation and permit. This involves recording time spent on each chargeable activity related to a permit, consent, etc which is then cost recovered from the operator. As such there was a substantial change in the costs associated with each OPPC permit, as it would be very much dependant on the quality and complexity of permit applications, the time required to review and approve permit applications and any subsequent discussions with an operator in relation to permit variations rather than a fixed cost per permit⁷ as had previously been the approach to charging fees.

The permitting regime as set out in the Guidance to the 2005 OPPC Regulations requires:

- operators to obtain a Life Permit for a production installation which is in place for the life of the installation; and
- an annual update and review for maintaining the Life Permit.

In addition, permits for short term operations, called Term Permits, are applied for once and do not require an annual review as they typically do not last for more than one year. Permits granted in accordance with the 2005 OPPC Regulations may be varied where operators make changes to the operation of offshore installations.

As such, OPRED sought - through the survey - information on the costs of obtaining a new Life Permit or Term Permit as well as the costs for maintaining or varying such permits for comparison with the IA set up costs and rolling annual costs.

The IA considered both the initial implementation costs for applying for new permits as well as the ongoing annual maintenance costs for permits. The IA estimated that the average total cost for an offshore operator for obtaining new permits would be £20,000 during implementation, with subsequent annual costs on average of £15,000. This would equate to average costs of £33,797 for new permits and £25,348 for maintenance of permits in 2023.

Survey responses from operators regarding new Life Permit costs indicated that they ranged somewhere between £1,500 - £12,000 per new Life Permit. One operator responded that the annual costs per Life Permit were £1,500 - £4,000 (applies to three permits), two responded that the costs were £4,001 - £8,000 (applies to eight permits), while one responded that the costs per permit were £8,001 - £12,000 (applies to 15 permits).

Taking account of the number of permits and these costs, this would equate to an average operator cost in 2023 of approximately £7,932 for a new Life Permit. There are 95 Life Permits currently in place which would total £753,540 in application costs amongst the 35 installation operators, which would be an average cost per operator of £21,530 for their new Life Permits.

⁷ The Pollution Prevention and Control (Fees) (Miscellaneous Amendments and Other Provisions) Regulations 2015 <https://www.legislation.gov.uk/uksi/2015/1431/contents>

Survey responses from operators regarding Term Permit costs indicated that they ranged somewhere between £1,500 - £8,000 per new Term Permit. Three operators responded that annual costs per Term Permit were £1,500 - £4,000 (applies to 17 permits), while three responded that the costs were £4,001 - £8,000 (applied to 10 permits). One operator whose Term Permit costs were in the range of £4,001 - £8,000 also commented that their permit applications were often applied for via consultancies where the associated costs had risen significantly.

On the same basis as for Life Permits, the average operator cost per new Term Permit was approximately £3,953. In 2022, 150 Term Permits were applied for, which would result in an industry cost of £592,950 across the 28 operators (not all the same as Life Permit holders) with an average cost of £21,177 per operator for all their new Term Permits.

As the IA did not differentiate costs between Life and Term Permits, totalling the Life and Term Permit costs would equal £1,346,500 across 41 different operators⁸ with an average operator cost of £32,840 for all their new permits. This compares relatively favourably with the IA figure of £20,000 for new permits which would equate to £33,797 in 2023. However, it should be noted that the number of permits (415 vs 245) and operators (44 vs 41) changed significantly between 2005 and 2023 making any comparison difficult and the actual costs incurred by operators in 2005 / 2006 for changing to the new permitting regime are not known.

The IA assumed that subsequent annual permit maintenance costs would be in the order of £15,000 per operator (equates to £25,348 in 2023). The costs for maintaining Life Permits have been used to assess this, as Term Permits are generally not maintained year to year. Survey responses from operators regarding Life Permit maintenance costs indicated that they ranged somewhere between less than £1,500 - £8,000 per Life Permit. One operator responded that the annual maintenance costs per Life Permit were less than £1,500 (applies to three permits), two responded that costs were £4,001 - £8,000 (applies to 15 permits), while one responded that costs per permit were £1,501 - £4,000 (applies to seven permits).

Taking account of the number of permits and these costs, this would equate to an average total cost to operators in 2023 of approximately £4,490 for maintaining a Life Permit. Applying this to the current 95 Life Permits across the 35 installation operators with Life Permits gives a total industry cost of £426,550 with an average operator cost of £12,190 for maintaining all their Life Permits, which is considerably lower than the IA estimated. However, it should be noted that the number of Life Permits in the IA (215) which would be maintained compared to the 95 currently in place and the number of operators (44 vs 35) changed significantly between 2005 and 2023 making any comparison difficult.

OPRED Costs

In addition to the costs to operators for preparing and submitting permit applications the IA considered the cost to Government which would be recovered from industry through fees. Costs to Government per permit were assumed to be approximately £1,540 for either a Life Permit or a Term Permit. This would equate to £2,602 in September 2023⁹. OPRED costs were obtained from the OPRED fees team for the period 2021 - 2023 and the average costs per type of permit were determined.

⁸ In 2022, 35 operators had life permits. Six of the 28 operators who applied for term permits in 2022 do not hold Life Permits as they are not installation operators hence there are 41 different operators who applied for permits.

⁹ Based on Bank of England inflation calculator <https://www.bankofengland.co.uk/monetary-policy/inflation/inflation-calculator>

Average OPRED costs recovered from industry for reviewing new permit applications over the period 2021 - 2023 were £539 for a Life Permit (19 over this period) and £412 for a Term Permit (354 over this period). This totals £156,089 for an average permit review cost of £419 which is approximately 16% of the IA cost in 2023 terms. This is significantly lower than the IA assumed however cost recovery within OPRED is very different now than in 2005 where all OPRED costs were shared across just 4 pieces of legislation. As costs are now recovered based on time writing against activities associated with sixteen different pieces of legislation, rather than four, it would be expected that costs associated specifically with the 2005 OPPC Regulations would be lower than estimated in 2005 under a different cost recovery approach.

5. Unintended Consequences

The survey asked respondents whether there were any unintended consequences or unexpected outcomes as a result of the way in which the 2005 OPPC Regulations (“the Regulations”) had been introduced and were being applied. Four of the five respondents either agreed or were neutral that there were no unintended consequences.

One respondent (two installations) believed there were unintended consequences from the way in which the Regulations had been applied. They commented that there was broad interpretation of the Regulations which resulted in time / effort spent on items which carried almost no risk of pollution.

6. Opportunities for reducing burden

In response to the survey all but one respondent agreed that the current regulatory regime of oil discharge permitting was the best approach for limiting the discharge of oil to sea from offshore installations. The one respondent that disagreed suggested that measures could be taken to streamline the current system to reduce the administrative burden and regulatory costs such as removing the requirement for monthly reporting, the mass Emission Limit Value and the annual update to the 3-year mass forecast . They also commented that a site-specific BAT approach to produced water management looking at impacts to the environment as a whole could be adopted.

OPRED currently reviews Life Permits annually, which includes forecast oil discharge data to understand likely trends in oil to sea and any deterioration in performance by operator’s installations. OPRED will consider whether the annual review of forecasts is still needed or whether this could be undertaken two or three yearly.

Monthly reporting is a compliance process as permits are issued with a monthly discharge limit and the reporting obligation is not unduly burdensome as oil discharges are monitored and recorded daily by all manned installations with a produced water discharge.

The current permitting approach does require operators to consider BAT for produced water management with permit applicants required to provide a BAT demonstration. However, the current offshore environmental regulations do not take a holistic approach for a site as a whole for all emissions and discharges which may result in increasing discharges to some receptors to achieve greater reductions in others. It would require a significant change in legislation to adopt an integrated pollution prevention and control approach which is in place onshore.

7. How does the UK approach compare with the implementation of similar measures internationally, including how EU member states implemented EU requirements that

are comparable or now form part of retained EU law, or how other countries have implemented international agreements?

The 2005 OPPC Regulations were introduced to, in part, implement OSPAR measures rather than EU regulations. All OSPAR Contracting Parties with an offshore oil and gas industry met the target for a 15% reduction by 2006 in the quantity of oil discharged in produced water except for one Contracting Party (Denmark) where this was not achieved until 2010. All OSPAR Contracting Parties with an offshore oil and gas industry have a permitting regime for the control of oil discharged to sea. Of the relevant OSPAR Contracting Parties only the UK had proposed a Trading Scheme which ultimately revoked before being fully implemented.

Subsequent to the introduction of the 2005 OPPC Regulations and in alignment with the goals of OSPAR Recommendation 2001/01 whereby new installations should have no oil discharges to sea, over the last 10 years OPRED has set lower produced water oil discharge permit limits where oil is still required to be discharged to sea for new installations in line with what operators had indicated they could achieve in their Environmental Statements (as submitted to OPRED in accordance with offshore Environmental Impact Assessment Regulations). Norway had recently announced that as average produced water discharges from Norwegian installations were much less than 15mg/l they would be reducing the required performance standard to this level for all installations from the current 30mg/l maximum performance standard. The UK will continue to set installation specific permitted discharge limits based upon BAT demonstrations and what is set out in Environmental Statements prior to new projects being sanctioned.