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STATUTORY INSTRUMENTS

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**2013 No. 971**

**ENVIRONMENTAL PROTECTION**

**The Offshore Combustion Installations (Pollution  
Prevention and Control) Regulations 2013**

<i>Made</i>	- - - -	<i>22nd April 2013</i>
<i>Laid before Parliament</i>		<i>25th April 2013</i>
<i>Coming into force</i>	- -	<i>19th May 2013</i>

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 <sup>M1</sup>;

The Secretary of State, in exercise of the powers conferred by sections 2 and 7(9) of that Act, makes the following Regulations:

**Marginal Citations**

**M1** 1999 c. 24.

**PART 1**

Introduction

**Citation, commencement and review**

1.—(1) These Regulations may be cited as the Offshore Combustion Installations (Pollution Prevention and Control) Regulations 2013 and come into force on 19th May 2013.

(2) The Secretary of State must from time to time—

- (a) carry out a review of these Regulations;
- (b) set out the conclusions of the review in a report; and
- (c) publish the report.

(3) The report must in particular—

- (a) set out the objectives intended to be achieved by these Regulations;
- (b) assess the extent to which those objectives are achieved; and

*Status: Point in time view as at 19/05/2013.*

*Changes to legislation: There are currently no known outstanding effects for the The Offshore Combustion Installations (Pollution Prevention and Control) Regulations 2013. (See end of Document for details)*

- (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved in a less burdensome way.
- (4) The first report under this regulation must be published before the end of the period of five years beginning on the date these Regulations come into force.
- (5) Reports under this regulation are afterwards to be published at intervals not exceeding five years.

## Interpretation

### 2.—(1) In these Regulations—

“the 2010 Directive” means Directive 2010/75/EU of the European Parliament and of the Council on industrial emissions (integrated pollution prevention and control)(Recast)<sup>M2</sup>;

“available techniques” means those techniques developed on a scale which allows implementation under economically and technically viable conditions, taking into consideration the costs and advantages, whether or not the techniques are used or produced in the United Kingdom, the offshore area or the relevant gas area, as long as they are reasonably accessible to the operator;

“best” means most effective in achieving a high general level of protection of the environment as a whole;

“best available techniques” means the most effective and advanced stage in the development of activities and their methods of operation which indicates the practical suitability of particular techniques for providing the basis for emission limit values and other permit conditions designed to prevent and, where that is not practicable, to reduce emissions and the impact on the environment as a whole;

“carbon dioxide storage or unloading platform” means any fixed or floating structure—

- (a) used for or in connection with an activity within section 17(2) of the Energy Act 2008<sup>M3</sup> (“a section 17(2) activity”) but not including—
  - (i) a structure the principal purpose of which is an activity within section 17(2)(c) of that Act; or
  - (ii) a floating structure unless it is being maintained on station during the course of a section 17(2) activity; and
- (b) where the section 17(2) activity is licensed under section 18 of that Act by the Secretary of State;

“combustion installation” means any technical apparatus in which fuels are oxidised in order to use the heat thus generated;

“EIA Directive” means Council Directive [85/337/EEC](#) on the assessment of the effects of certain public and private projects on the environment<sup>M4</sup>, as amended by Council Directive [97/11/EC](#)<sup>M5</sup>, Directive [2003/35/EC](#) of the European Parliament and of the Council providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access to justice Council Directives [85/337/EEC](#) and [96/61/EC](#)<sup>M6</sup> and Directive [2009/31/EC](#) of the European Parliament and of the Council on the geological storage of carbon dioxide and amending Council Directive [85/337/EEC](#), European Parliament and Council Directives [2000/60/EC](#), [2001/80/EC](#), [2004/35/EC](#), [2006/12/EC](#), [2008/1/EC](#) and Regulation (EC) No [1013/2006](#)<sup>M7</sup>;

“emerging technique” means a novel technique that, if commercially developed, could provide—

- (a) a higher general level of protection of the environment; or

- (b) at least the same level of such protection and higher cost savings, compared to existing best available techniques;
- “emission” means the direct or indirect release of a pollutant listed in Schedule 2 from individual or diffuse sources in the offshore combustion installation into a medium;
- “emission limit value” means the mass, expressed in terms of any of all of certain specific parameters, concentration or level of an emission, which may not be exceeded during one or more periods of time;
- “enforcement notice” means, except in regulation 38, a notice given by the Secretary of State under regulation 30;
- “fuel” means any liquid or gaseous combustible material;
- “Gas Importation and Storage Zone” has the same meaning as it has in section 1(5) of the Energy Act 2008 <sup>M8</sup>;
- “gas storage or unloading platform” means any fixed or floating structure—
- (a) used for or in connection with an activity within section 2(3) of the Energy Act 2008 except where the principal purpose of the structure is an activity within section 2(3)(e) of that Act; but
- (b) excluding a floating structure which is not being maintained on station during the course of an activity to which paragraph (a) applies;
- “medium” means air or water;
- “member State” includes Iceland and Norway;
- “mile” means nautical mile;
- “offshore area” means the areas comprising—
- (a) 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 adjacent to—
- (i) England; and
- (ii) Scotland, Wales and Northern Ireland except that part which extends seaward for 3 miles from the landward baseline; and
- (c) the sea in any designated area within the meaning of the Continental Shelf Act 1964 <sup>M9</sup>, and includes the places above those areas and the bed and subsoil of the sea within those areas;
- “offshore combustion installation” means a combustion installation which is permanently installed on—
- (a) a petroleum platform situated in the offshore area;
- (b) a gas storage or unloading platform situated in the relevant gas area; or
- (c) a carbon dioxide storage or unloading platform,
- and which on its own or together with any other combustion installation on the same platform has a rated thermal input which is equal to or exceeds 50 megawatts;
- “operator” means a person who operates or controls, in whole or part, an offshore combustion installation;
- “permit” means a written permission granted by the Secretary of State to operate an offshore combustion installation;
- “petroleum” has the same meaning as it has in section 1 of the Petroleum Act 1998 <sup>M10</sup>;

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“petroleum platform” means any fixed or floating structure used for, or in connection with, the production of petroleum but excluding—

- (a) a floating structure which is not being maintained on station during the course of production; or
- (b) a structure the principal purpose of which is—
  - (i) to establish the existence of petroleum;
  - (ii) to appraise the characteristics, quality or quantity of petroleum; or
  - (iii) to appraise the characteristics or extent of any reservoir in which petroleum occurs;

“pollution” means the direct or indirect introduction, as a result of human activity, of a pollutant listed in Schedule 2 into a medium, which may—

- (a) be harmful to human health or the quality of the environment;
- (b) result in damage to material property; or
- (c) impair or interfere with amenities and other legitimate uses of the environment;

“prohibition notice” means, except in regulation 38, a notice given by the Secretary of State under regulation 31;

“relevant gas area” means the areas comprising—

- (a) the sea areas described in paragraphs (a) and (b) of the definition of “the offshore area”; and
- (b) the sea in a Gas Importation and Storage Zone,

and includes the places above those areas and the bed and subsoil of the sea within those areas;

“relevant platform” means, as appropriate,—

- (a) a carbon dioxide storage or unloading platform;
- (b) a gas storage or unloading platform; or
- (c) a petroleum platform;

“surrender offer” has the meaning given in regulation 17(1);

“techniques” includes both the technology used and the way in which the offshore combustion installation is designed, built, maintained, operated and decommissioned.

(2) A term used in these Regulations which is not defined in paragraph (1) and which is used in the 2010 Directive, has the same meaning in these Regulations as it has in the 2010 Directive.

#### **Marginal Citations**

- M2** OJ No L 334, 17.12.2010, p17.
- M3** [2008 c. 32.](#)
- M4** OJ No L 175, 5.7.1985, p40.
- M5** OJ No L 73, 14.3.1997, p5.
- M6** OJ No L 156, 25.6.2003, p17.
- M7** OJ No L 140, 5.6.2009, p114.
- M8** [2008 c. 32.](#)
- M9** [1964 c. 29.](#)
- M10** [1998 c. 17.](#)

## PART 2

### Applications for permits and conditions in permits

#### Requirement for permits

3. A person must not operate an offshore combustion installation—
  - (a) without a permit; and
  - (b) otherwise than in accordance with the conditions in that permit.

#### Applications for permits

- 4.—(1) A person may apply in writing to the Secretary of State for a permit.
- (2) An application must include a description of—
  - (a) the offshore combustion installation (“the installation”) and its activities;
  - (b) the relevant platform on which the installation is installed;
  - (c) the materials, substances and energy used in or generated by the installation;
  - (d) the sources of emissions from the installation;
  - (e) the conditions of the site of the installation;
  - (f) the nature and quantities of foreseeable emissions from the installation into each medium and any significant effects of the emissions on the environment;
  - (g) the proposed technology and other techniques for preventing or, where this is not possible, reducing emissions from the installation;
  - (h) where necessary, measures for the prevention and recovery of waste generated by the installation;
  - (i) measures planned to monitor emissions into the environment;
  - (j) to the extent not otherwise described, measures planned to comply with the principles listed in regulation 7(3); and
  - (k) the main alternatives (if any) to the technology and techniques referred to in sub-paragraph (g) studied by the applicant, in outline.
- (3) An application must be accompanied by a non-technical summary of the information which must be provided under paragraph (2).
- (4) Where an applicant has an environmental statement which contains information which must be provided under paragraph (2), the applicant may include the statement with the application in order to provide that information.
- (5) In paragraph (4), “environmental statement” has the same meaning as it has in regulation 3(1) of the Offshore Petroleum Production and Pipe-lines (Assessment of Environmental Effects) Regulations 1999<sup>M11</sup>.

#### Marginal Citations

- M11** S.I. 1999/360. The definition of “environmental statement” was substituted by regulations 3 and 4(d) of S.I. 2007/933.

**Making applications publicly available**

5.—(1) Where the Secretary of State receives an application for a permit, the Secretary of State must make publicly available a notice which contains the matters in paragraph (2) (“an application notice”).

- (2) The matters referred to in paragraph (1) are—
- (a) a copy of the application;
  - (b) that representations by the public may be sent to the Secretary of State in respect of the application;
  - (c) where those representations are to be sent;
  - (d) the date by which those representations must be received, which must be no earlier than 4 weeks after the application notice is made public;
  - (e) whether or not the operation of the offshore combustion installation which is the subject of the application—
    - (i) is likely to have significant negative effects on the environment of another member State; and
    - (ii) requires an environmental impact assessment or consultation with another member State before a decision in respect of the application can be made;
  - (f) the possible decisions which may be made by the Secretary of State in respect of the application;
  - (g) when such decisions are likely to be made; and
  - (h) such other information as the Secretary of State considers relevant to the application.
- (3) Where the Secretary of State holds information which—
- (a) was not included in the application notice; and
  - (b) the Secretary of State considers is relevant to the application,

the Secretary of State must make publicly available as soon as possible a notice which contains the matters in paragraph (4) (“a supplemental notice”).

- (4) The matters referred to in paragraph (3) are—
- (a) the additional information;
  - (b) reference to the application notice and any previous supplemental notice;
  - (c) where those notices are publicly available; and
  - (d) any amendment of—
    - (i) the date by which representations from the public must be received, which date must not be earlier than the date given for that purpose in the application notice; and
    - (ii) the matters in paragraph (2)(e) or (g).

**Applications for permits and variation of permits: effects on the environment of other member States**

- 6.—(1) This regulation applies where—
- (a) the Secretary of State considers that the operation of an offshore combustion installation which is the subject of an application under regulation 4 or a notice under regulation 12 is likely to have significant negative effects on the environment of another member State; or
  - (b) another member State requests details of the operation of an offshore combustion installation which is the subject of such an application or notice.

- (2) The Secretary of State must, as soon as possible after—
  - (a) making publicly available the application notice and any supplemental notice; or
  - (b) receipt of the notice under regulation 12,provide a copy of the notice to the other member State.
- (3) When complying with paragraph (2), the Secretary of State must inform the other member State of the date by which any representations by that State must be received by the Secretary of State.
- (4) In respect of an application under regulation 4, the date under paragraph (3) must not be earlier than—
  - (a) the date included in the application notice under regulation 5(2)(d); or
  - (b) if applicable, any amendment of that date included in any supplemental notice.

### Determining applications

- 7.—(1) Before granting or refusing an application for a permit, the Secretary of State must take into account—
- (a) representations received—
    - (i) from the public by the date provided for their receipt in the application notice or any supplemental notice; and
    - (ii) where regulation 6(1) applies, from another member State by the date provided under regulation 6(3);and
  - (b) where Article 4 of the EIA Directive applies, any relevant information obtained by or provided to the Secretary of State and any conclusion of the Secretary of State under Articles 5, 6, 7 and 9 of the EIA Directive.
- (2) The Secretary of State must grant a permit to an applicant if the Secretary of State is satisfied that the offshore combustion installation will be operated in compliance with the 2010 Directive.
- (3) The Secretary of State must in particular be satisfied that the applicant will operate the offshore combustion installation in accordance with the principles that—
- (a) all appropriate measures are taken to prevent pollution, including by the application of best available techniques;
  - (b) no significant pollution will be caused;
  - (c) the production of non-gaseous waste is avoided where possible by the use of—
    - (i) clean technologies which are sparing in their use of natural resources; or
    - (ii) products designed to reduce the amount or harmfulness of waste;
  - (d) where non-gaseous waste is produced, it is—
    - (i) prepared for reuse, recycled or recovered; or
    - (ii) where compliance with paragraph (i) is not technically and economically possible, disposed of in such a way as to avoid or minimise any impact on the environment;
  - (e) energy is used efficiently;
  - (f) necessary measures are taken to prevent accidents which may affect the environment and to limit the environmental consequences of accidents;
  - (g) necessary measures are taken when the operation finally ceases—
    - (i) to decommission and remove the offshore combustion installation; and

- (ii) to avoid any risk of pollution arising in consequence of the decommissioning and removal.

### **Granting and refusal of applications**

**8.—**(1) The Secretary of State must give notice to the applicant as soon as possible of the decision to grant a permit or to refuse the application, together with reasons for the decision.

(2) The Secretary of State must make publicly available as soon as possible the notice given under paragraph (1) together with—

- (a) a summary of the representations received and taken into account—
  - (i) from the public; and
  - (ii) where regulation 6 applies, from another member State;
- and
- (b) how the representations described in sub-paragraph (a) were taken into account in making the decision.

### **Conditions in permits**

**9.—**(1) Subject to regulation 10, the Secretary of State must—

- (a) set conditions in a permit to secure the matters in paragraph (2); and
  - (b) in setting conditions on the basis of best available techniques, give particular consideration to the criteria listed in Schedule 1 in determining those techniques but must not prescribe the use of any particular technique or technology.
- (2) The matters referred to in paragraph (1)(a) are that—
- (a) the operator complies with the principles in regulation 7(3);
  - (b) in respect of a pollutant listed in Schedule 2 which is likely to be emitted from the offshore combustion installation in significant quantities, there are controls on the emissions in the form of—
    - (i) emission limit values for the pollutant;
    - (ii) where the Secretary of State considers it appropriate, equivalent parameters or technical measures; or
    - (iii) a combination of such values, parameters or measures,and that those controls have regard to the total mass of the emissions from the offshore combustion installation, the nature of the pollutant and its potential to transfer pollution from one medium to another;
  - (c) in respect of waste generated by the offshore combustion installation, there are appropriate measures to monitor and control that waste;
  - (d) in respect of a pollutant which may be emitted from the offshore combustion installation, there are suitable emission monitoring requirements for such an emission, which include—
    - (i) measurement methodology, frequency and evaluation procedure;
    - (ii) where the Secretary of State intends to set less strict emission limit values as provided by regulation 10(1), that the results of emission monitoring are provided for the same periods and with the same reference conditions as would apply to emission levels associated with the best available techniques; and



- (iii) the provision at least annually of information on the basis of the results of emission monitoring under paragraphs (i) and (ii) and such other data which enables the Secretary of State to verify compliance with the permit;
  - (e) in respect of subparagraph (d)(ii) where it applies, there are requirements to provide a summary of the results of emission monitoring which allows a comparison with the emission levels associated with the best available techniques;
  - (f) in respect of pollution which may travel long distances or to another member State, there are appropriate controls to minimise that travel;
  - (g) in respect of an operation of the offshore combustion installation other than a normal operation, including start-up and shutdown, leaks, malfunctions, momentary stoppages and definitive cessation of operation, there are controls which minimise risks to the environment from such an operation;
  - (h) in respect of any incident or accident which may significantly affect the environment, the operator immediately—
    - (i) informs the Secretary of State and any other public authority which has responsibilities concerning such incidents or accidents; and
    - (ii) takes the measures required to limit the environmental consequences and to prevent further possible incidents or accidents; and
  - (i) in respect of any breach of the conditions in a permit, the operator as soon as possible informs the Secretary of State and takes the necessary measures to restore compliance.
- (3) The Secretary of State—
- (a) must include conditions in a permit which enable the Secretary of State to assess compliance with emission limit values; and
  - (b) may include such other conditions in a permit as the Secretary of State thinks fit.

### **Emission limit values**

**10.**—(1) Where paragraph (2) applies and subject to paragraph (3), the Secretary of State may set emission limit values as a condition of a permit which are less strict than the values required by Article 15(3) of the 2010 Directive (“the Article 15(3) values”).

- (2) The Secretary of State must—
- (a) assess that to impose the Article 15(3) values would lead to disproportionately higher costs compared to the environmental benefits because of—
    - (i) the geographical location of, or the local environmental conditions at, the relevant platform where the offshore combustion installation is installed; or
    - (ii) the technical characteristics of the offshore combustion installation;
  - and
  - (b) be satisfied that by setting the emission limit values, no significant pollution will be caused and a high level of protection of the environment as a whole will be achieved.
- (3) The Secretary of State must include in an annex to the permit—
- (a) the result of the assessment under paragraph (2)(a); and
  - (b) the justification for being satisfied under paragraph (2)(b).

**Greenhouse gases**

**11.**—(1) A condition must not be included in a permit to secure the matters in regulation 9(2) in respect of the emissions of a greenhouse gas specified in Annex I to the 2003 Directive, except to the extent that a condition is required in order to ensure no significant local pollution is caused.

(2) In paragraph (1), “the 2003 Directive” means Directive [2003/87/EC](#) of the European Parliament and of the Council establishing a scheme for greenhouse gas emission allowance trading within the Community, as amended <sup>M12</sup>.

**Marginal Citations**

**M12** OJ No L 275, 25.10.2003, p32. This Directive has been amended by Directive 2004/101/EC of the European Parliament and of the Council in respect of the Kyoto Protocol's project mechanisms (OJ No L 338, 13.11.2004, p18), Directive 2008/101/EC of the European Parliament and of the Council so as to include aviation activities in the scheme for greenhouse gas emission allowance trading within the Community (OJ No L 8, 13.1.2009, p3) and Directive 2009/29/EC of the European Parliament and of the Council so as to improve and extend the greenhouse gas emission allowance trading scheme of the Community (OJ L 140, 5.6.2009, p63).

**PART 3****Variations of conditions in permits****Variation of operation of offshore combustion installations**

**12.**—(1) Where an operator proposes to vary the operation of an offshore combustion installation (“the proposed variation”), the operator must—

- (a) give notice to the Secretary of State of the proposed variation; and
- (b) supply such information as the Secretary of State requests in order that the Secretary of State may consider whether or not to approve the variation and what, if any, variation of the permit may be required.

(2) The operator must not put into effect the proposed variation unless and until the operator receives a notice under paragraph (4) approving the variation.

(3) Where—

- (a) the Secretary of State considers that the proposed variation would be a substantial change in operation of the offshore combustion installation; and
- (b) Article 4 of the EIA Directive applies,

the Secretary of State must take into account any relevant information obtained by or provided to the Secretary of State and any conclusion of the Secretary of State under Articles 5, 6, 7 and 9 of the EIA Directive when deciding to approve or refuse the proposed variation.

(4) Subject to paragraph (5), the Secretary of State must, as soon as possible after the notice under paragraph (1) is received, give notice to the operator—

- (a) approving the proposed variation, together with any varied conditions in the permit; or
- (b) refusing the proposed variation, together with reasons for that decision.

(5) Where—

- (a) a notice is received under paragraph (1); and
- (b) regulation 6(1) applies,

the Secretary of State must take account of representations received from another member State by the date provided under regulation 6(3) before giving notice to the operator under paragraph (4).

(6) Where the Secretary of State approves a proposed variation—

- (a) the conditions in the permit may be varied as the Secretary of State thinks fit; but
- (b) regulation 9(1) must be complied with when making any variation.

(7) In this regulation, “substantial change in operation” means a change in the nature or functioning, or an extension, of an offshore combustion installation which—

- (a) may have significant negative effects on the environment; or
- (b) in itself is equal to or greater than a rated thermal input of 50 megawatts.

### Review of permits

**13.—**(1) Subject to paragraph (2), the Secretary of State must review the conditions of a permit at such intervals as the Secretary of State thinks fit.

(2) The Secretary of State must review the conditions in a permit where the Secretary of State considers that—

- (a) developments in best available techniques allow for the significant reduction of emissions without incurring excessive costs;
- (b) the operational safety of the offshore combustion installation requires techniques, other than best available techniques to be used; or
- (c) the pollution caused by the offshore combustion installation is of such significance that the existing emission limit values, equivalent parameters or technical measures in the permit need to be revised.

(3) Where further to a review the Secretary of State considers a variation of the conditions in the permit are required, the Secretary of State must comply with regulation 9(1) in setting those conditions.

(4) The Secretary of State must in carrying out a review—

- (a) encourage the development and application of emerging techniques for the reduction of emissions in relation to offshore combustion installations; and
- (b) consider the results of monitoring and inspections of the offshore combustion installation.

(5) An operator must provide to the Secretary of State such information as the Secretary of State requests which may be needed to review the conditions of a permit.

(6) The information which may be requested under paragraph (5) includes, where the application of best available techniques is appropriate to the offshore combustion installation, the results of emission monitoring and other data which enables a comparison of the operation of the offshore combustion installation with the emission levels associated with the best available techniques.

### Variation of conditions in permits following a review except further to regulation 13(2)(c)

**14.—**(1) This regulation applies where the Secretary of State considers that a variation of the conditions in a permit is required further to a review of the conditions, except where the review was undertaken (in whole or part) further to regulation 13(2)(c).

(2) The Secretary of State must give the operator notice of the intended variation of the conditions (“variation notice”).

(3) The variation notice must—

- (a) be given at least 14 days before the Secretary of State intends that the variation is to have effect (“the variation date”); and

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- (b) state the date by which any representations from the operator must be received.
- (4) The Secretary of State must take into account any such representations received from the operator.
- (5) The Secretary of State must—
  - (a) give effect to a variation of the conditions in the permit in such amended form and on the variation date or such later date, as the Secretary of State considers appropriate; or
  - (b) withdraw the variation notice.
- (6) The Secretary of State must as soon as possible give notice to the operator of the decision made under paragraph (5) and make that notice publicly available.

### **Variation of conditions in permits following a review further to regulation 13(2)(c)**

**15.**—(1) This regulation applies where the Secretary of State considers that a variation of the conditions in a permit is required further to a review of the conditions, where the review was undertaken (in whole or part) further to regulation 13(2)(c).

(2) The Secretary of State must make publicly available a notice which contains the matters in paragraph (3) (“variation notice”).

- (3) The matters referred to in paragraph (2) are—
  - (a) a copy of the intended variation of the conditions;
  - (b) that representations by the operator and the public may be sent to the Secretary of State in respect of the variation;
  - (c) where those representations are to be sent;
  - (d) the date by which those representations must be received, which must be no earlier than 4 weeks after the variation notice is made public;
  - (e) when the intended variation of the conditions is to take effect (“variation date”);
  - (f) the possible decisions which may be made by the Secretary of State in response to representations; and
  - (g) such other information as the Secretary of State considers relevant.
- (4) Where the Secretary of State—
  - (a) holds information which was not included in the variation notice; and
  - (b) which the Secretary of State considers is relevant to the intended variation,

the Secretary of State must make publicly available as soon as possible a notice which contains the matters in paragraph (5) (“a supplemental notice”).

- (5) The matters referred to in paragraph (4) are—
  - (a) the additional information;
  - (b) reference to the variation notice and any previous supplemental notice;
  - (c) where those notices are publicly available; and
  - (d) any amendment of—
    - (i) the date by which representations from the operator and public must be received, which date must not be earlier than the date given for that purpose in the variation notice; or
    - (ii) the variation date.

(6) The Secretary of State must take into account any representations from the operator and public received by the date set out in the variation notice or any supplemental notice.

- (7) The Secretary of State must—
  - (a) give effect to a variation of the conditions in such amended form and on the variation date or such later date, as the Secretary of State considers appropriate; or
  - (b) withdraw the variation notice.
- (8) The Secretary of State must as soon as possible give notice of a decision under paragraph (7) to the operator and make that notice publicly available.

## **PART 4**

### **Revocation, surrenders and assignments**

#### **Revocation**

- 16.**—(1) The Secretary of State may revoke a permit where—
  - (a) that permit was obtained by the provision of false or misleading information in a material particular; or
  - (b) the conditions in a permit are breached.
- (2) The Secretary of State must give notice to the operator as soon as possible—
  - (a) that the permit is revoked from the date set out in the notice; and
  - (b) of the reasons for the revocation.
- (3) The Secretary of State must as soon as possible make publicly available a notice given under paragraph (2).

#### **Surrenders**

- 17.**—(1) An operator may give notice to the Secretary of State that it intends to surrender a permit on a date set out in the notice (“surrender offer”).
- (2) A surrender offer must be accompanied by any fee which is provided under regulation 22.
- (3) The Secretary of State must as soon as possible after receipt of the surrender offer give notice to the operator that—
  - (a) the permit will be treated as surrendered from the date set out in the notice, which may be other than the date set out in the surrender offer; or
  - (b) the surrender offer is refused, together with the reasons for that decision.
- (4) The Secretary of State must as soon as possible make publicly available a notice given under paragraph (3).

#### **Assignments**

- 18.**—(1) An operator may apply to the Secretary of State by notice for permission to assign a permit.
- (2) The Secretary of State must as soon as possible after receipt of the application give notice to the operator that—
  - (a) the permit may be assigned within a time period specified in the notice (“permission notice”); or
  - (b) the application is refused, together with the reasons for that decision.
- (3) Where—

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- (a) a permission notice is given; and
- (b) the permit is assigned within the time period specified in that notice,

the assignor and assignee must give notice to the Secretary of State as soon as possible of the completion of the assignment and the date it completed.

(4) The Secretary of State must as soon as possible make publicly available a notice given under paragraph (2).

### **Revocation, surrenders and assignments: additional matters**

**19.**—(1) The Secretary of State may agree to a surrender or assignment subject to such conditions as the Secretary of State thinks fit.

(2) Where a permit is revoked, surrendered or assigned, that does not affect the liability of the operator in respect of any breach of the permit conditions which occurs before the revocation, surrender or assignment has effect.

## **PART 5**

### Transboundary projects, registers, fees and information notices

#### **Transboundary projects in other member States**

**20.**—(1) This regulation applies where the Secretary of State receives information from another member State concerning the operation (or proposed operation) of a combustion installation in that member State which is likely to have significant negative effects on the transboundary area (“transboundary effects”).

(2) The Secretary of State must—

- (a) consult the other member State about the transboundary effects;
- (b) promptly make available to the public and such authorities as the Secretary of State thinks fit the information received from the other member State and any additional information derived from the consultation with that State;
- (c) give the public and the authorities a reasonable opportunity to provide written comments to the Secretary of State concerning the transboundary effects.

(3) The Secretary of State must provide to the other member State any comments it receives under paragraph (2)(c).

(4) To the extent that the Secretary of State is informed by the other member State of—

- (a) that State's decision concerning the operation of the installation referred to in paragraph (1); and
- (b) the reasons for that decision,

the Secretary of State must as soon as possible make that information available to the public and such authorities as the Secretary of State thinks fit.

(5) In this regulation, “transboundary area” means the areas described in—

- (a) paragraphs (a), (b) and (c) of the definition of the offshore area; and
- (b) paragraph (b) of the definition of the relevant gas area, where that lies beyond the area described in paragraph (a).

## Register

- 21.—(1) The Secretary of State must maintain a register which includes information on—
- (a) application notices and supplemental notices given by the Secretary of State under regulation 5;
  - (b) notices given by the Secretary of State under regulation 8(1);
  - (c) the matters described in regulation 8(2);
  - (d) permits granted and the conditions in those permits, together with any annexes to the permits as described in regulation 10(3);
  - (e) notices given by the Secretary of State under regulation 12(2), together with the proposed variation to which a notice relates;
  - (f) notices given by the Secretary of State under regulation 12(4);
  - (g) variation notices given by the Secretary of State under regulation 14(3) and any representations received from operators in response to such a notice;
  - (h) notices given by the Secretary of State under regulation 14(6);
  - (i) variation notices and supplemental notices given by the Secretary of State under regulation 15 and any representations received in response to such notices;
  - (j) notices given by the Secretary of State under regulation 15(8);
  - (k) the revocation, surrender or assignment of a permit;
  - (l) environmental inspection plans and programmes for routine inspections made under regulation 27;
  - (m) inspection reports made by the Secretary of State under regulation 29;
  - (n) enforcement and prohibition notices.

(2) The register maintained under paragraph (1) must be kept up to date at reasonable intervals and the register or copies of it must be made readily accessible to the public.

## Fees

- 22.—(1) Subject to paragraphs (2) and (5), the Secretary of State may charge a fee in respect of—
- (a) determining—
    - (i) an application for a permit under regulation 4;
    - (ii) an application for a variation under regulation 12;
    - (iii) a surrender offer;
    - (iv) an application for assignment under regulation 18;
  - (b) the subsistence of a permit;
  - (c) carrying out—
    - (i) a variation of the conditions of a permit further to a review under regulation 13;
    - (ii) a revocation of a permit;
    - (iii) a test or analysis of a substance;
    - (iv) a verification of the validity of, or the results of, a test or analysis of a substance;
    - (v) an assessment of the effect upon the environment of the operation of an offshore combustion installation.
- (2) A fee may only be charged under paragraph (1) where—
- (a) the Secretary of State has set out the fee in a charging scheme; and

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- (b) the charging scheme has been made publicly available before the scheme takes effect.
- (3) A fee is payable at the time provided in the charging scheme.
- (4) A charging scheme—
  - (a) may be varied from time to time; and
  - (b) must be so framed such that the fees set out in the scheme are sufficient, taking one year with another, to meet the costs incurred by or on behalf of the Secretary of State in relation to the matters in respect of which a fee is payable.
- (5) A fee may only be charged in respect of the matters in paragraph (1)(c)(iii) to (v) where those matters are carried out by the Secretary of State—
  - (a) in anticipation of or in connection with an application for a permit under regulation 4 or an application for a variation under regulation 12; or
  - (b) pursuant to the conditions in a permit.

### **Information notices and reporting**

**23.**—(1) The Secretary of State may by notice (“information notice”) require a person to provide to the Secretary of State such information as the Secretary of State considers is reasonably required by the Secretary of State—

- (a) to perform the functions of the Secretary of State under Parts 1 to 4 of these Regulations; and
- (b) to monitor compliance with the 2010 Directive in relation to offshore combustion installations.

(2) Where the Secretary of State considers that a person has access to information on emissions from an offshore combustion installation, an information notice may require that person to compile and provide information on those emissions, notwithstanding that the information is not held by that person at the time the notice is received.

- (3) An operator must report by notice to the Secretary of State as soon as possible—
  - (a) planned changes in the nature, functioning or extension of an offshore combustion installation which may have consequences for the environment;
  - (b) any accident or incident affecting an offshore combustion installation which has or may have a significant negative effect on the environment; and
  - (c) any breach of the conditions in the permit.

## **PART 6**

### **Enforcement, appeals, and offences**

#### **Appointment of inspectors**

**24.**—(1) The Secretary of State may authorise in writing a person who appears suitable (“an inspector”) to act on the Secretary of State's behalf to exercise functions of the Secretary of State under these Regulations, subject to any limitations or conditions as the Secretary of State thinks fit.

(2) Unless the Secretary of State provides to the contrary, a person is an inspector for the purposes of paragraph (1) where that person is authorised as an inspector under regulation 13(1) of the Offshore Combustion Installations (Prevention and Control of Pollution) Regulations 2001<sup>M13</sup>.



### Marginal Citations

M13 S.I. 2001/1091, to which there are various amendments, none of which affect regulation 13(1).

### Powers of inspectors

25. To assist in the exercise of the functions of the Secretary of State under these Regulations, an inspector may—

- (a) at any reasonable time (or in case of emergency, at any time) board any relevant platform, together with any equipment or material as may be required, and may be accompanied by any other person authorised by the Secretary of State;
  - (b) make such examination and investigation as the inspector considers necessary and may install or maintain monitoring or other apparatus on the relevant platform;
  - (c) direct that any part of the relevant platform be left undisturbed for so long as may be necessary to effect any examination or investigation;
  - (d) take such measurements and photographs or record such information as the inspector considers necessary in relation to any examination or investigation;
  - (e) take samples of any thing found on the relevant platform and of the atmosphere, land, seabed (including its subsoil) or water in the vicinity of the relevant platform;
  - (f) in the case of any thing found on or in the vicinity of the relevant platform and which appears to the inspector to have caused, or to be likely to cause, significant pollution, cause it to be dismantled or subjected to any process or test (but not so as to damage or destroy the thing unless that is necessary);
  - (g) take possession of any thing to which subparagraph (f) applies and detain it for so long as is necessary—
    - (i) to examine it and do to it anything provided by this regulation;
    - (ii) to ensure it is not tampered with before its examination is completed;
    - (iii) to ensure that it is available for use as evidence in any proceedings for an offence under regulation 34;
  - (h) require any person (“P1”) whom the inspector has reasonable cause to believe is able to give information relevant to any examination or investigation—
    - (i) to attend at a place and time specified by the inspector;
    - (ii) to answer (in the absence of any persons other than those whom the inspector may allow to be present and a person nominated by P1) such questions as the inspector thinks fit to ask; and
    - (iii) to sign a declaration of truth of the answers given by P1;
  - (i) require the production of, and inspect and take copies of, or any entry in,—
    - (i) any records which are required to be kept by virtue of these Regulations;
    - (ii) any records which the inspector considers it necessary to see for the purposes of any examination or inspection;
- and
- (j) require any person (“P2”) to afford the inspector such facilities and assistance with respect to any matter or thing within P2's control or in relation to which P2 has responsibilities, as the inspector considers necessary to enable the exercise of any powers provided under this regulation.

**Admissible evidence**

**26.**—(1) An answer given by a person in compliance with a requirement imposed under regulation 25 is 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.

(2) In criminal proceedings in which such person as is mentioned in paragraph (1) is charged with an offence to which this paragraph applies, no evidence relating to that person's answer may be adduced and no question 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.

(3) Paragraph (2) applies to any offence other than one under—

- (a) regulation 34(2)(b);
- (b) section 5 of the Perjury Act 1911 <sup>M14</sup>(false statements made otherwise than on oath);
- (c) section 44(2) of the Criminal Law (Consolidation) (Scotland) Act 1995 <sup>M15</sup>(false statements made otherwise than on oath); or
- (d) article 10 of the Perjury (Northern Ireland) Order 1979 <sup>M16</sup>(false statutory declarations and other false unsworn statements).

(4) Nothing in regulation 25 compels the production by any person of a document which—

- (a) except in relation to Scotland, that person would on grounds of legal professional privilege be entitled to withhold production on an order for discovery in an action in the County Court, High Court or High Court in Northern Ireland; or
- (b) in relation to Scotland, contains confidential information made by or to an advocate or solicitor in that capacity and which that person would be entitled to withhold production on an order for the production of documents in an action in the Court of Session.

**Marginal Citations**

**M14** 1911 c. 6.

**M15** 1995 c. 39.

**M16** S.I. 1979/1714 (N.I. 19).

**Environmental inspection plans and programmes**

**27.**—(1) The Secretary of State must ensure that an offshore combustion installation is covered by an environmental inspection plan.

(2) In paragraph (1), “environmental inspection plan” means a plan which includes the following—

- (a) a general assessment of relevant significant environmental issues;
- (b) the geographical area covered by the plan;
- (c) a register of the offshore combustion installations covered by the plan;
- (d) procedures for drawing up programmes for routine environmental inspections;
- (e) procedures for non-routine environmental inspections; and
- (f) where necessary, provisions on the cooperation between the Secretary of State and other persons or bodies responsible for inspection of relevant platforms.

(3) The Secretary of State must review regularly and keep up to date environmental inspection plans.

(4) Programmes for routine environmental inspections must—

- (a) be regularly drawn up by the Secretary of State;
- (b) be based on the environmental inspections plans; and
- (c) include the frequency of inspections.

## Inspections

**28.**—(1) The Secretary of State must carry out routine inspections of offshore combustion installations in accordance with the programmes provided for under regulation 27(4).

(2) The frequency of inspections of offshore combustion installations must be based on a systematic appraisal by the Secretary of State of the environmental risks of the installations and, subject to paragraph (5), the period between inspections must not exceed—

- (a) one year, for installations posing the highest environmental risks; and
- (b) three years, for installations posing the lowest environmental risks.

(3) Where an inspection of an offshore combustion installation identifies important non-compliance with the conditions in the permit, a further inspection must be carried out within six months of that inspection.

(4) The systematic appraisal referred to in paragraph (2) must be based on at least the following—

- (a) the impact and potential impact of the offshore combustion installation on the environment, taking into account—
  - (i) the levels and types of emissions;
  - (ii) the sensitivity of the local environment; and
  - (iii) the risk of accidents;
- (b) the record of compliance by the operator with the conditions in the permit for the offshore combustion installation;
- (c) if applicable, whether or not the operator participates in EMAS <sup>M17</sup> or an equivalent scheme.

(5) The Secretary of State must carry out non-routine inspections of offshore combustion installations as soon as possible to investigate—

- (a) complaints made to the Secretary of State of serious environmental incidents;
- (b) serious environmental accidents or incidents; or
- (c) occurrences of serious non-compliance by the operator with the conditions in the permit.

(6) Where appropriate, an inspection under paragraph (5) must take place before the Secretary of State decides whether or not to vary the conditions in a permit pursuant to regulations 12 or 13.

### Marginal Citations

**M17** EMAS is the eco-management and audit scheme established pursuant to EU Regulation 1221/2009 of the European Parliament and of the Council on the voluntary participation by organisations in a Community eco-management and audit scheme (OJ L 342, 22.12.2009, p1).

## Reports further to inspections

**29.**—(1) The Secretary of State must prepare a report (“an inspection report”) after an inspection of an offshore combustion installation which describes—

- (a) the relevant findings of the inspection concerning the compliance by the operator with the conditions in the permit for that installation; and

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- (b) the conclusions on whether or not any further action is required by the operator to ensure such compliance.
- (2) The Secretary of State must take the necessary steps to ensure the operator carries out any such further action within a reasonable period.
- (3) The Secretary of State must—
  - (a) give a notice to the operator which includes a copy of the inspection report within two months of the date of the inspection giving rise to the report; and
  - (b) make the inspection report publicly available within fourth months of the date of the inspection giving rise to the report.

### **Enforcement notices**

**30.**—(1) If the Secretary of State is of the opinion that a person has contravened, is contravening or is likely to contravene the conditions in a permit, the Secretary of State may give that person an enforcement notice.

- (2) An enforcement notice must—
  - (a) state the opinion referred to in the preceding paragraph;
  - (b) specify the matters constituting the contravention or the matters making it likely that the contravention will arise, as the case may be;
  - (c) specify the steps that must be taken to remedy the contravention or to remedy the matters making it likely that the contravention will arise, as the case may be; and
  - (d) specify the period within which those steps must be taken.
- (3) An enforcement notice may be varied or withdrawn at any time.

### **Prohibition notices**

**31.**—(1) If the Secretary of State is of the opinion that the activities of a person, in relation to a contravention or likely contravention of the conditions in a permit, are such that they involve an imminent risk of serious pollution of the environment, the Secretary of State may give that person a prohibition notice.

- (2) A prohibition notice must—
  - (a) state the opinion referred to in the preceding paragraph;
  - (b) specify the risk involved in the activity; and
  - (c) specify the steps that must be taken to remove it and the period within which they must be taken.
- (3) A prohibition notice may be varied or withdrawn at any time.

### **Action by the Secretary of State on failure to comply with enforcement or prohibition notices**

**32.** Where a person fails to comply with an enforcement notice or prohibition notice, the Secretary of State may—

- (a) do what that person was required to do; and
- (b) recover from that person any expenses reasonably incurred in doing so.

### **Appeals**

**33.**—(1) This regulation applies to a decision (“a relevant decision”) made by the Secretary of State which is contained in a notice made under—

- (a) regulation 8(1) (granting and refusal of applications);
  - (b) regulation 12(4) (variation of operation of offshore combustion installations);
  - (c) regulation 14(6) (variation of conditions in permits following a review except further to regulation 13(2)(c));
  - (d) regulation 15(8) (variation of conditions in permits following a review further to regulation 13(2)(c));
  - (e) regulation 16(2) (revocation);
  - (f) regulation 17(3) (surrenders);
  - (g) regulation 18(2) (assignments).
- (2) A person with a sufficient interest may appeal to the court against a relevant decision but must do so within 28 days of the date of the notice.
- (3) A relevant decision remains in force until the court orders otherwise.
- (4) In paragraph (2), “the court” means in respect of an offshore combustion installation situated in—
- (a) the English area, the High Court;
  - (b) the Northern Ireland area, the High Court in Northern Ireland;
  - (c) the Scottish area, the Court of Session.
- (5) Where an offshore combustion installation is situated in more than one of the areas listed in paragraph (4), any of the courts which has jurisdiction for that area under paragraph (4) is “the court” for the purposes of paragraph (2).
- (6) In this regulation “the English area”, “the Northern Ireland area” and “the Scottish area” have the same meaning as in the Civil Jurisdiction (Offshore Activities) Order 1987<sup>M18</sup>.

#### **Marginal Citations**

**M18** S.I. 1987/2197.

### **Offences**

- 34.**—(1) It is an offence for a person to operate an offshore combustion installation—
- (a) without a permit; or
  - (b) in breach of the conditions in a permit.
- (2) It is an offence for a person—
- (a) to fail to comply with an information notice, an enforcement notice or a prohibition notice;
  - (b) to make a statement—
    - (i) which that person knows to be false or misleading in a material particular; or
    - (ii) recklessly and which is false or misleading in a material particular,where the statement is made in purported compliance with a requirement to furnish any information imposed by or under these Regulations;
  - (c) intentionally to obstruct an inspector in the exercise or performance of the powers or duties of an inspector;
  - (d) to fail to comply with any requirement imposed pursuant to regulation 25; or
  - (e) to prevent any other person from appearing before an inspector, or answering any question to which an inspector may require an answer.

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(3) It is a defence for a person (“A”) charged with an offence under paragraph (2) to prove that the contravention arose—

- (a) because of a matter which A could not have reasonably prevented; or
- (b) by reason of something done as a matter of urgency and which was carried out for securing the safety of a person.

(4) Where the commission by a person (“B”) of an offence under paragraph (1) or (2) is due to the act or default of another person (“C”), C may be charged with and convicted of the offence, whether or not proceedings for the offence are taken against B.

(5) Proceedings for an offence under paragraph (1) or (2) may be taken, and the offence may be treated as having been committed, in any part of the United Kingdom.

(6) Section 3 (restriction on institution of proceedings for punishment of offence) of the Territorial Waters Jurisdiction Act 1878 <sup>M19</sup> does not apply to any proceedings for an offence under paragraph (1) or (2).

#### **Marginal Citations**

**M19** 1878 c. 73.

#### **Penalties**

**35.** A person guilty of an offence under regulation 34 is liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum;
- (b) on conviction on indictment, to a fine.

#### **Bodies corporate and Scottish partnerships**

**36.—**(1) Where an offence under regulation 34 is committed by a body corporate and—

- (a) it is committed with the consent or connivance of an officer; or
- (b) it is attributable to any neglect on the officer's part,

the officer as well as the body corporate is guilty of the offence and is liable to be proceeded against and punished accordingly.

(2) “Officer”, in relation to a body corporate, means a director, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity.

(3) If the affairs of a body corporate are managed by its members, paragraph (1) applies in relation to the acts or defaults of a member in connection with that member's functions of management as if the member were a director of the body corporate.

(4) Where an offence under regulation 34 is committed by a Scottish partnership and—

- (a) it is committed with the consent or connivance of a partner; or
- (b) it is attributable to any neglect on the partner's part,

the partner as well as the partnership is guilty of the offence and is liable to be proceeded against and punished accordingly.

(5) In paragraph (4) “partner” includes a person purporting to act as a partner.

## PART 7

### Notices, revocation, transitional provision and environmental information

#### Notices

37.—(1) A notice under these Regulations—

- (a) must be in writing; and
- (b) may be given to a person by—
  - (i) delivering it to that person in person;
  - (ii) leaving it at that person's proper address, or
  - (iii) sending it by post or electronic means to that person's proper address.

(2) In the case of a body corporate, a notice may be served on or given to the secretary or clerk of that body.

(3) In the case of a partnership, a notice may be served on or given to a partner or a person having control or management of the partnership business.

(4) If a person to be served with or given a notice has specified an address in the United Kingdom (other than that person's proper address) at which that person or someone on that person's behalf will accept notices, that address must instead be treated as that person's proper address.

(5) In this regulation—

- (a) “person” (except in subparagraph (b)(ii)) includes an unincorporated association other than a partnership;
- (b) “proper address” means—
  - (i) in the case of a body corporate or their secretary or clerk—
    - (aa) the registered or principal office of that body, or
    - (bb) the email address of the secretary or clerk;
  - (ii) in the case of a partnership or a partner or person having control or management of the partnership business—
    - (aa) the principal office of the partnership, or
    - (bb) the email address of a partner or a person having that control or management;
  - (iii) in any other case, a person's last known address, which includes an email address.

(6) For the purposes of paragraph (5), the principal office of a company registered outside the United Kingdom or of a partnership established outside the United Kingdom is their principal office in the United Kingdom.

(7) Where the Secretary of State specifies an electronic address for submission of a notice to the Secretary of State, it may be submitted electronically to that address.

#### Revocation and transitional provision

38.—(1) Subject to paragraphs (3), (5) and (6), the following (referred to in paragraphs (3), (5) and (6) as “the existing regulations”) are revoked—

- (a) the Offshore Combustion Installations (Prevention and Control of Pollution) Regulations 2001 <sup>M20</sup> (“the 2001 Regulations”);

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- (b) regulation 19 of, and Schedule 1 to, the Offshore Petroleum Activities (Oil Pollution Prevention and Control) Regulations 2005 <sup>M21</sup>;
  - (c) the Offshore Combustion Installations (Prevention and Control of Pollution) (Amendment) Regulations 2007 <sup>M22</sup>;
  - (d) article 5 of the Energy Act 2008 (Consequential Modifications) (Offshore Environmental Protection) Order 2010 <sup>M23</sup>.
- (2) References to numbered regulations in paragraphs (3) and (7) are to the regulations so numbered in the 2001 Regulations as amended.
- (3) The existing regulations continue to have effect to determine an application made under regulation 5—
- (a) where the application was made before these Regulations came into force; and
  - (b) the application was not refused or determined before that date.
- (4) A permit granted further to an application to which paragraph (3) applies is a “new permit”.
- (5) Subject to paragraph (6), the existing regulations continue to have effect up to and including 7th January 2014 in respect of an offshore combustion installation—
- (a) where immediately before these Regulations came into force, a permit subsisted in respect of that installation; or
  - (b) to which a new permit applies,
- provided that the offshore combustion installation is in operation on or before 7th January 2014.
- (6) Where in respect of an offshore combustion installation—
- (a) the existing regulations continue to have effect under paragraph (5); and
  - (b) any of the matters in paragraph (7) are not determined on or before 7th January 2014,
- the existing regulations continue to have effect after 7th January 2014 for the purposes of determining that matter.
- (7) The matters referred to in paragraph (6) are—
- (a) an appeal made under regulation 17;
  - (b) an application by an operator to vary the terms and conditions of a permit under regulation 8(1);
  - (c) a notice to surrender under regulation 10(2);
  - (d) a request to assign a permit under regulation 10(3);
  - (e) a notice of intention to issue a revised permit under regulation 9(3)(a) or (4)(a);
  - (f) a notice to revoke a permit under regulation 10(1);
  - (g) a notice to provide information under regulation 12(3);
  - (h) an enforcement notice under regulation 14;
  - (i) a prohibition notice under regulation 15;
  - (j) proceedings commenced before the date these Regulations come into force in respect of an offence under regulation 18.

#### **Marginal Citations**

**M20** [S.I. 2001/1091](#).

**M21** [S.I. 2005/2055](#).

**M22** [S.I. 2007/938](#).



**M23** [S.I. 2010/1513](#).

### **Environmental information**

**39.**—(1) Paragraph (2) applies in respect of any provision of these Regulations under which the Secretary of State is required to make environmental information accessible or available to the public (“a relevant provision”).

(2) A relevant provision does not require the Secretary of State to make accessible or available to the public any information which, were a request for its disclosure to be made under the Environmental Information Regulations 2004<sup>M24</sup>, the Secretary of State would be entitled to refuse to disclose under those regulations.

### **Marginal Citations**

**M24** [S.I. 2004/3391](#).

Department for Energy and Climate Change  
22nd April 2013

*Michael Fallon*  
Minister of State

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## SCHEDULE 1

Regulation 9(1)(b)

### Criteria for determining best available techniques

The criteria referred to in regulation 9(1)(b) for determining best available techniques are—

- (1) the use of low-waste technology;
- (2) the use of less hazardous substances;
- (3) the furthering of recovery and recycling of substances generated and used in the process and of waste, where appropriate;
- (4) comparable processes, facilities or methods of operation which have been tried with success on an industrial scale;
- (5) technological advances and changes in scientific knowledge and understanding;
- (6) the nature, effects and volume of the emissions concerned;
- (7) the commissioning dates for new or existing offshore combustion installations;
- (8) the length of time needed to introduce the best available technique;
- (9) the consumption and nature of raw materials (including water) used in the process and energy efficiency;
- (10) the need to prevent or reduce to a minimum the overall impact of the emissions on the environment and the risks to it;
- (11) the need to prevent accidents and to minimise the consequences for the environment; and
- (12) information published by public international organisations.

## SCHEDULE 2

Regulation 9(2)

### Pollutants

The pollutants referred to in regulation 9(2) are—

- (1) sulphur dioxide and other sulphur compounds;
- (2) oxides of nitrogen and other nitrogen compounds;
- (3) carbon monoxide;
- (4) volatile organic compounds;
- (5) metals and their compounds;
- (6) dust, including fine particulate matter;
- (7) asbestos (suspended particulates, fibres);
- (8) chlorine and its compounds;
- (9) fluorine and its compounds;
- (10) arsenic and its compounds;
- (11) cyanides;
- (12) substances and mixtures which have been proved to possess carcinogenic or mutagenic properties or properties which may affect reproduction via the air; and
- (13) polychlorinated dibenzodioxins and polychlorinated dibenzofurans.

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations form part of the implementation by the United Kingdom of Directive 2010/75/EU of the European Parliament and of the Council on industrial emissions (integrated pollution prevention and control)(Recast) (OJ No L 334, 17.12.2010, p17) (“the 2010 Directive”). These Regulations transpose obligations of the 2010 Directive insofar as those obligations apply to offshore combustion installations.

### Part 1

Regulation 1 provides for a periodic review of these Regulations and regulation 2 contains definitions, including the definitions of an offshore combustion installation and an operator of such an installation.

### Part 2

Regulation 3 provides for the requirement for a permit to operate an offshore combustion installation and regulation 4 sets out the procedure for an operator to make an application for a permit to the Secretary of State. Requirements are placed on the Secretary of State under regulation 5 to make applications publicly available. Under regulation 6, certain applications for a permit or for variation of a permit (see regulation 12) must be notified to other member States (which includes Iceland and Norway). Regulation 7 provides for the matters the Secretary of State must take into account before granting or refusing an application for a permit. Those matters include representations from the public and, where applicable, other member States. The Secretary of State's decision to grant a permit or refuse the application must be notified to the applicant under regulation 8, which also provides for the decision and any representations in relation to the application to be made publicly available.

Regulation 9 provides for the conditions which may be included in a permit. Under regulation 10, the Secretary of State may set emission limit values as a condition in a permit which are less strict than the values required by Article 15(3) of the 2010 Directive. Under regulation 11, conditions must not be imposed in respect of emissions of greenhouse gases, except where required to ensure no significant local pollution is caused.

### Part 3

Under regulation 12, an operator may apply to the Secretary of State to vary the conditions in a permit and the regulation sets out the matters the Secretary of State must take into account before deciding to approve or refuse the application. Those matters may include representations from another member State (see regulation 6).

Regulation 13 requires the Secretary of State to review the conditions in a permit and provides for the matters to be taken into account on a review. Regulations 14 and 15 provide for the procedures by which variations to permits are brought into effect and requirements in respect of representations from the operator and the public.

*Status: Point in time view as at 19/05/2013.*

*Changes to legislation: There are currently no known outstanding effects for the The Offshore Combustion Installations (Pollution Prevention and Control) Regulations 2013. (See end of Document for details)*

#### **Part 4**

A permit may be revoked by the Secretary of State under regulation 16. An operator may apply to the Secretary of State to surrender a permit under regulation 17 or to assign a permit under regulation 18. Under regulation 19, a surrender or assignment may be agreed subject to conditions.

#### **Part 5**

Regulation 20 applies where the operation of a combustion installation in another member State is likely to have significant negative effects on the areas of the sea in which offshore combustion installations require a permit from the Secretary of State under these Regulations. The regulation requires the Secretary of State to consult the other member State, to make information publicly available in relation to the likely significant negative effects and to provide to the other member State comments received by the Secretary of State.

Regulation 21 requires the Secretary of State to maintain a public register. Under regulation 22, the Secretary of State may charge fees for certain matters in accordance with a charging scheme. Regulation 23 allows the Secretary of State to require persons to provide information to enable the Secretary of State to perform functions under Parts 1 to 4 of these Regulations and to monitor compliance with the 2010 Directive. Regulation 23 also requires operators to give notice of certain matters to the Secretary of State.

#### **Part 6**

Regulation 24 provides for the appointment of inspectors to assist the Secretary of State in the performance of the Secretary of State's functions under these Regulations. Powers are granted to inspectors under regulation 25. Regulation 26 provides when information obtained may be admissible evidence in proceedings.

Regulation 27 requires the Secretary of State to have environmental inspection plans and programmes. Regulation 28 provides for the frequency of inspections and regulation 29 that reports must be prepared after an inspection and for the reports to be made publicly available.

Regulations 30 to 32 provide for enforcement and prohibition notices.

Regulation 33 sets out those matters which may be appealed by a person with a sufficient interest, and that the appeal body is the court.

Regulations 34 to 36 provide for criminal offences and penalties.

#### **Part 7**

Regulation 37 provides for the form of notices. Regulation 38 makes transitional provisions. Regulation 39 provides that no requirement under these Regulations to make environmental information publicly available extends to information which the Secretary of State would be entitled to refuse to make available under the Environmental Information Regulations 2004 (S.I. 2004/3391). Schedule 1 lists the criteria for determining best available techniques and Schedule 2 lists the pollutants to which controls must be applied by a condition in a permit.

An impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen. A transposition note setting out how the 2010 Directive, as it applies to offshore combustion installations, is transposed into the law of the United Kingdom is available and can be obtained from the Energy Development Unit, Offshore Oil & Gas Environment and Decommissioning Branch, Department of Energy and Climate Change, 3rd Floor (Area B), 3 Whitehall Place, London SW1A 2AW. The transposition note has also been published with the Explanatory Memorandum alongside the instrument on [www.legislation.gov.uk](http://www.legislation.gov.uk).

**Status:**

Point in time view as at 19/05/2013.

**Changes to legislation:**

There are currently no known outstanding effects for the The Offshore Combustion Installations (Pollution Prevention and Control) Regulations 2013.