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STATUTORY INSTRUMENTS

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**2013 No. 971**

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

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(1).

### **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—

(1) [S.I. 1999/360](#). The definition of “environmental statement” was substituted by regulations 3 and 4(d) of [S.I. 2007/933](#).

- (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(2).

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(2) 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).