

**GUIDANCE NOTES ON THE  
OFFSHORE CHEMICALS REGULATIONS 2002 (AS AMENDED 2011)**

**March 2011**

**Edition 1**

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## **ABOUT THIS GUIDANCE**

This revised guidance is issued by the Department of Energy and Climate Change (“the Department”) on 29 March 2011, and comes into force on 30 March 2011. It is addressed to companies involved in the use or discharge of chemicals in offshore activities. Such activities are regulated under the Offshore Chemicals Regulations 2002 (as amended). Although this guidance refers to legal obligations under those Regulations, which companies must comply with, following other aspects of the guidance is not in itself obligatory. However, following the guidance should help your company meet its legal obligations and avoid adverse environmental effects resulting from the offshore use, discharge or release of chemicals.

This Guidance has been drafted in accordance with the Government’s Code of Practice on Guidance on Regulation that can be found at:

<http://www.bis.gov.uk/files/file53268.pdf>

The Guidance will be reviewed every five years.

## **INTRODUCTION**

1.1 The Offshore Chemicals Regulations 2002 (S.I. 2002/1355) (“the Regulations”) implement OSPAR Decision 2000/2 on a Harmonised Mandatory Control System for the Use and Reduction of the Discharge of Offshore Chemicals (as amended by OSPAR Decision 2005/1) on the UK Continental Shelf (“UKCS”). The Decision can be found on the OSPAR website at:

[www.ospar.org](http://www.ospar.org)

1.2 The Decision details an approach to the consideration of chemicals use and discharge in offshore activities. In addition to requiring the comprehensive testing of chemicals, the Decision requires the pre-screening, ranking and hazard assessment and risk management of chemicals, and the substitution of certain chemicals by less hazardous alternatives.

1.3 The Decision operates in conjunction with two OSPAR Recommendations which are fundamental to the implementation of the Decision. These Recommendations are OSPAR Recommendation 2000/4 (as amended by OSPAR Recommendations 2008/1 and 2010/4) on a Harmonised Pre-Screening Scheme for Offshore Chemicals and OSPAR Recommendation 2000/5 (as amended by OSPAR Recommendations 2005/3, 2008/2 and 2010/3) on a Harmonised Offshore Chemical Notification Format. The Recommendations can also be found on the OSPAR website. The UK technical approach to implementing the Decision and associated Recommendations is appended at Annex A.

1.4 The Regulations originally came into force on 15<sup>th</sup> May 2002, and introduced a comprehensive system of controls for the use and discharge of chemicals in offshore oil and gas activities. The Regulations were amended by the Offshore Petroleum Activities (Oil Pollution, Prevention and Control) Regulations 2005. Copies of both sets of Regulations can be found at:

<http://www.legislation.gov.uk>

1.5 The scope of Regulations was extended by the Energy Act 2008 (Consequential Modifications) (Offshore Environmental Protection) Order 2010, which applied the Regulations to the additional offshore energy-related activities of natural gas unloading and storage and carbon dioxide storage, subject to geographical restrictions on their application related to the devolution settlements. This guidance therefore also applies to gas storage and unloading activities undertaken in the reserved area that are the responsibility of the Secretary of State for Energy and Climate Change (“the Secretary of State”).

1.6 In administering the Regulations since 2002, it has become apparent that the Secretary of State requires clearer powers to take enforcement action in respect of unintentional emissions of chemicals. The Offshore Chemicals (Amendment) Regulations 2011 (the Amendment) will provide this clarification by differentiating between discharges (an intentional emission of a chemical or its degradation or transformation products) and any other emissions, referred to in the Amendment as releases. This change is supported by the creation of a new offence (new regulations 3A and 18(1)(b)) of making a release, or allowing such a release to continue, which could lead to enforcement action being taken.

1.7 A further consequence of the Amendment is that the Regulations will now cover any intentional emission of offshore chemicals, including the intentional discharge of chemicals that cannot be re-used or recycled. Consequently, such discharges will in future require a permit under the Regulations rather than a licence under the Food and Environment Protection Act (FEPA) 1985, Part II Deposits in the Sea, or a licence under the Marine and Coastal Act 2009 which will replace FEPA Part II. However, an offshore chemicals permit will only be granted in circumstances where the chemicals cannot be used for their intended purpose and discharge can be demonstrated to represent Best Environmental Practice.

1.8 Other minor changes have been made to bring the Regulations into line with the Offshore Petroleum Activities (Oil Pollution Prevention and Control) Regulations 2005, so that common terms and procedures are applied to both sets of regulations, and to clarify minor issues identified in administering the Regulations since they originally came into force.

1.9 The main thrust of the Regulations and the approach to their implementation remains unchanged. Companies using or discharging chemicals in connection with offshore activities will need to apply to

the Secretary of State for one of two types of permit to cover both their use and discharge. Uses and discharges at producing offshore installations in the relevant area or active storage or unloading installations in the reserved area will be covered by 'Production Permits', 'Storage Permits' or 'Unloading Permits', which will be open ended and subject to review every three years. Uses and discharges at satellite installations where the production or storage is mediated via the "host" offshore installation to which they are tied back will be covered by the production or storage permits for the host installation. Time-limited uses and discharges during offshore activities such the drilling or maintenance of wells, the commissioning, maintenance and decommissioning of pipelines, and the decommissioning of installations, will be covered by 'Term Permits'.

1.10 In both types of permit application, applicants will need to list the chemicals and amounts intended to be used together with the amounts expected to be discharged. As part of the application process, they will have to present a risk assessment of the consequences of the use and discharge of these chemicals on the receiving environment. The Department will receive technical advice on applications and risk assessments from the Centre for Environment, Fisheries and Aquaculture Science (CEFAS) for English and Welsh waters, or from Marine Scotland (MS, formerly Fisheries Research Services Marine Laboratory) for Scottish waters.

1.11 The Department will only accept permit applications in respect of chemicals that have been notified to and assessed by CEFAS and included in the list of notified chemicals to be found on the CEFAS website at:

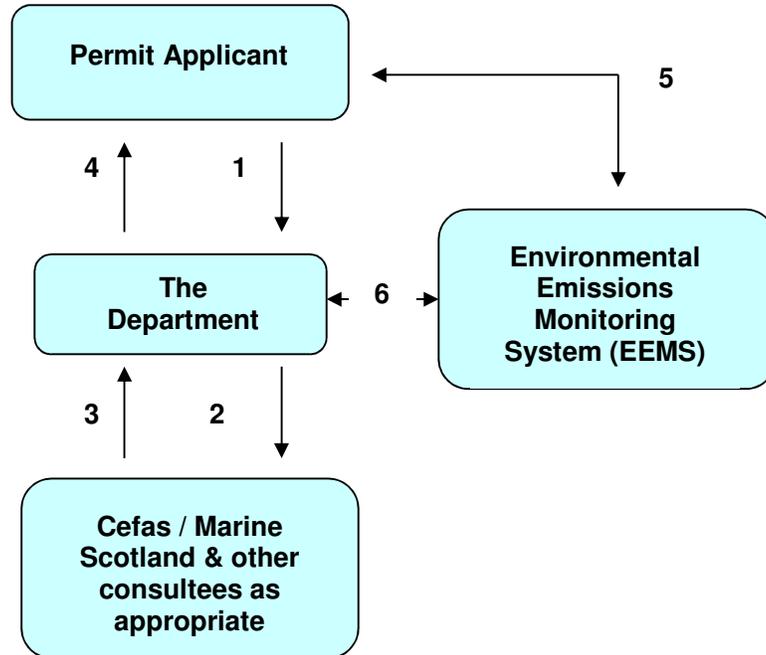
<http://www.cefasc.co.uk/industry-information/offshore-chemical-notification-scheme.aspx>.

1.12 CEFAS will pre-screen and rank the chemicals in accordance with the OSPAR Decision, prior to including the chemicals in the list of notified chemicals. Suppliers wishing to market their products for offshore activities are therefore strongly advised to "pre-screen" offshore chemicals at the substance level as part of their product development programmes.

1.13 It should be borne in mind that the underlying thrust of the OSPAR Decision is to seek the use of less hazardous chemicals wherever that is possible. This is pursued in two ways, with chemical suppliers required to seek substitutes for those substances identified as hazardous in the pre-screening; and operators making informed judgements on the selection of chemicals based on their ranking and risk assessment. This does not mean that chemicals which are the least hazardous *must* be used – operational requirements may well dictate otherwise – but companies using chemicals in offshore activities should always seek chemicals which achieve the required objectives with minimal risk to the marine environment.

1.14 A flow chart summarising the permitting process is appended overleaf. In brief, companies wishing to use or discharge offshore chemicals will submit permit applications to the Department who will consult CEFAS or MS as is territorially appropriate for their views and critical assessment. In due course, and in the light of any comments made by these Agencies and from any other consultees or in response the Public Notice where appropriate, the Department will review the permit application and either issue a permit (with conditions as appropriate), or will inform the applicant if the application is refused.

## The Permitting Process



- |   |   |
|---|---|
| 1) Permit application process   | 5) Reporting of use and discharge to the EEMS database.                           |
| 2) Notification on The Department website and onward transfer to consultees, plus Public Notice if appropriate. | 6) Government interrogation of EEMS for enforcement and OSPAR reporting purposes. |
| 3) Comments from Cefas / MS and other interested parties.   |   |
| 4) Permit decision in light of consultees comments.   |   |

## **CONTACTS**

2.1 The Regulations are administered by the Offshore Environment and Decommissioning Unit (OED), based in Atholl House, Aberdeen, which is part of the Department's Energy Development Unit. Scientific advice is obtained from CEFAS / MS as appropriate, with additional environmental advice obtained from the Joint Nature Conservation Committee (JNCC). Where appropriate, OED will also consult relevant inshore nature conservation and environmental bodies.

### **Addresses:**

#### **DECC**

Environmental Management Team  
4<sup>th</sup> Floor, Atholl House  
86 - 88 Guild Street  
Aberdeen  
AB11 6AR

#### **DECC**

Offshore Environmental Inspectorate  
Address as above

#### **CEFAS**

Lowestoft Laboratory  
Pakefield Road  
Lowestoft  
Suffolk  
NR33 0HT

#### **MS**

PO Box 101  
Victoria Road  
Aberdeen  
AB11 9DB

#### **JNCC**

Inverdee House  
Baxter Street  
Aberdeen  
AB11 9QA

### **Contacts:**

e-mail: [emt@decc.gsi.gov.uk](mailto:emt@decc.gsi.gov.uk)

e-mail:

[offshoreinspectorate@decc.gsi.gov.uk](mailto:offshoreinspectorate@decc.gsi.gov.uk)

e-mail for chemical registration enquiries:

[ocns.chems@cefas.co.uk](mailto:ocns.chems@cefas.co.uk)

e-mail for risk assessment enquiries:

[ocns.ra@cefas.co.uk](mailto:ocns.ra@cefas.co.uk)

Phone: 01502 562244

Fax: 01502 513865

e-mail: [pon15@marlab.co.uk](mailto:pon15@marlab.co.uk)

Phone: 01224 876544

Fax: 01224 295524

e-mail: [jnccadvicetodti@jncc.gov.uk](mailto:jnccadvicetodti@jncc.gov.uk)

Phone: 01224 266550

Fax: 01224 896170

2.2 OSPAR Decisions and Recommendations are published by the OSPAR Commission:

#### **Oslo and Paris Commissions**

New Court  
48 Carey Street  
London  
WC2A 2JQ

e-mail: [secretariat@ospar.org](mailto:secretariat@ospar.org)

Phone: 020 7242 9927

Fax: 020 7831 7427

## **DEFINITIONS AND SCOPE**

### **What chemicals are covered by the Regulations?**

3.1 The relevant definitions used in the Regulations are:

“offshore chemical” means any chemical, whether comprising a substance or a preparation, used or intended to be used, in connection with offshore activities.

“substance” means a chemical element or compound, in the natural state or obtained by any production process, including any additive necessary to preserve the stability of the product or any impurity deriving from the process used, but excluding any solvent which may be separated without affecting the stability of the substance or changing its composition.

“preparation” means a mixture or solution composed of two or more substances.

“offshore activities” means-

- (a) offshore petroleum activities; or
- (b) offshore storage or unloading activities.

“offshore petroleum activities” means-

- (a) any activities in respect of which the Secretary of State exercises functions under the Petroleum Act 1998 being carried out in the relevant area; but
- (b) does not include activities (‘decommissioning activities’) carried out in connection with the abandonment of an offshore installation that, at the time of that abandonment, had last been used for the purposes of or in connection with offshore storage or unloading activities, unless those decommissioning activities are carried out in the reserved area;

“offshore storage and unloading activities” means any activity in respect of which the Secretary of State exercises functions under Part 1 of the Energy Act 2008, being activities carried out in the reserved area.

3.2 As set out above, the Regulations therefore cover any chemical used or intended to be used in connection with offshore petroleum activities, and also any chemicals used or intended to be used in connection with offshore storage and unloading activities.

3.3 The Regulations therefore apply to the use of any chemical in the exploration, exploitation and associated offshore processing of petroleum on an offshore installation, and apply to any chemical used during the establishment or decommissioning of offshore installations (but where the decommissioning is of an installation last used for the purposes of, or in connection with, offshore storage or unloading activities, the Regulations only apply in the reserved area – see ‘Where do the Regulations apply?’ below).

3.4 The Regulations would therefore apply, for example, to chemicals used in rig and turbine washes, pipe dopes, drilling fluids, completion fluids, hydraulic fluids used to control wellheads and blow-out preventers, and corrosion inhibitors used within import or export pipeline systems, in addition to chemicals used in the production and processing of hydrocarbons. or the storage or unloading of gases.

3.5 The Regulations also apply to chemicals generated offshore (such as sodium hypochlorite) that are used in connection with offshore petroleum activities in the relevant area, or in connection with offshore gas storage or unloading activities in the reserved area.

3.6 The Regulations are one of the means by which the UK meets its international obligations relating to the regulation of offshore chemicals, in particular under the OSPAR Decisions and Recommendations referred to in the Introduction. Further information about the interpretation of the OSPAR requirements can be found in the ‘Common Interpretation on which Chemicals are Covered and not Covered by the Harmonised Mandatory Control System under OSPAR Decision 2000/2’, which is appended at Annex B. If still in doubt, operators should contact OED.

### **Do the Regulations only cover chemical use?**

3.7 The Regulations cover both the use and discharge of chemicals in connection with offshore petroleum activities in the relevant area and offshore gas storage and unloading activities in the reserved area. By virtue of regulation 3, the use or discharge of offshore chemicals is prohibited except in accordance with the terms of, and conditions attached to, a permit. The definitions used in the Regulations are:

“use”, in relation to an offshore chemical, means any intentional application of the chemical in the carrying out of offshore activities under normal operating conditions.

“discharge”, in relation to an offshore chemical, means any intentional emission of the chemical, or any of its degradation or transformation products, from an offshore installation into the relevant area.

3.8 The Regulations also prohibit releases of chemicals (for which a permit cannot be obtained). The definition used in the Regulations is:

“release”, in relation to an offshore chemical, means the emission (other than by way of discharge) of the chemical, or any of its degradation or transformation products, from an offshore installation into the relevant area.

This definition would cover, in particular, unintentional emissions of offshore chemicals from an offshore installation.

### **Where do the Regulations apply?**

3.9 The Regulations are concerned with the use, discharge or release of chemicals from an ‘offshore installation’. For the purpose of these Regulations, ‘offshore installation’ includes fixed and floating surface structures, subsea facilities and pipelines.

3.10 The Regulations apply in different geographical areas for offshore petroleum activities and for offshore storage and unloading activities (this reflects the devolution settlements). In relation to offshore petroleum activities, the Regulations apply in the ‘relevant area’ which comprises of the sea adjacent to England from low water mark to the landward baseline of the territorial sea; most areas of the territorial sea (with the exception of the waters which extend seaward for 3 miles from the baselines from which the breadth of the territorial sea adjacent to Scotland and Wales is measured); and the Continental Shelf. In contrast, for offshore storage and unloading activities, the Regulations apply to the ‘reserved area’ comprising of the sea adjacent to England from low water mark to the landward baseline of the territorial sea; the territorial sea adjacent to England and Northern Ireland only; and those areas of the sea in a Gas Importation and Storage Zone.

3.11 Section 2(2) of the Regulations provides that any reference to the use, discharge or release of an offshore chemical in the Regulations should be read in relation to offshore storage and unloading activities as a reference to its use in, or discharge or release into, the reserved area.

## **ACTIVITIES REQUIRING PERMITS**

### **Production, storage and unloading operations**

4.1 The use and/or discharge of offshore chemicals in connection with offshore petroleum activities on offshore production installations established for a proposed or existing field development in the relevant area, or in connection with offshore gas storage and unloading activities on offshore storage or unloading installations established for a proposed or existing storage development in the reserved area, must be the subject of a permit under the Regulations.

4.2 In the case of stand-alone offshore production, storage or unloading installations, the operator will be required to submit a **PON15D** application for a production, storage or unloading permit. The application must include a forecast of chemical use and/or discharge covering a three year period. The PON15D is a dual-purpose form that permits the applicant to apply for a direction confirming that an environmental statement is not required for activities connected with the establishment, operation and maintenance of an offshore production, storage or unloading installation relating to a field or storage complex development under the Offshore Petroleum Production and Pipe-lines (Assessment of Environmental Effects) Regulations 1999 (as amended), and/or to apply for a chemical permit for the use and/or discharge of chemicals during production, storage or unloading operations.

4.3 The Secretary of State will issue production, storage or unloading permits for the use and/or discharge of chemicals during day-to-day installation operations, and all use and/or discharge of offshore chemicals must be made in accordance with the terms of, and conditions attached to, a permit. A field or storage complex with one offshore installation using and/or discharging chemicals will therefore require one permit, and a field or storage complex with three installations separately using and/or discharging chemicals will require three permits. Where installations, including sub-sea completions, are tied-back to a host installation that controls or mediates the use and/or discharge at those connected installations, only one production or storage permit will be required for the host installation. In such circumstances, the operator of the host installation will be responsible for applying for the permit on behalf of the tied-back installations, and responsible for reporting chemical use and/or discharges and any breaches of the terms of, or conditions attached to, the permit, whether those breaches relate to the host or tied-back installations, e.g. if there are any un-permitted increases in either the use or discharge of chemicals at any of the installations. Where there is separate use of chemicals at a tied-back installation, the tied-back installation will normally require its own permit.

4.4 Production, storage and unloading permits will be issued on an open-ended basis, subject to quarterly reporting of use and/or discharge of the permitted chemicals, and will be reviewed every three years.

4.5 In addition to authorising the use and/or discharge of chemicals during day-to-day installation operations, the permits can also include well intervention / work-over operations involving the use and/or discharge of chemicals that are undertaken at the installation or from vessels or rigs located within the safety zone of the installation. However, well intervention / work-over operations carried out by a vessel or rig operating outside the safety zone of the installation, including intervention / work-over operations undertaken at any tied-back installation, will have to be the subject of a separate term permit application, using the PON15F application form.

4.6 Where any chemical use and/or discharge has not been included in the predicted use and/or discharge during the three year period covered by the current application and permit, for either day-to-day installation operations or for any well intervention / work-over operations that are eligible to be covered by the permit, it is possible to apply for a variation to the chemical permit, but the application must be made in advance of the proposed additional chemical use and/or discharge.

### **Drilling operations**

4.7 Term permits are required for the use and/or discharge of all chemicals during the drilling and completion of a well in connection with offshore petroleum activities in the relevant area, or in connection with offshore gas storage and unloading activities in the reserved area, and must be applied for using the **PON15B**. The PON15B is a dual-purpose form that permits the applicant to apply for a direction confirming that an environmental statement is not required for the drilling of the well, and to apply for a chemical permit for the proposed operations. If an Environmental Statement has been approved solely for the drilling and completion of the well, the PON15B can just be used to apply for the term permit.

4.8 Term permits are also required if offshore chemicals are to be used and/or discharged during any shallow drilling operations (<350m depth) for the purpose of geological survey, in addition to the survey consent required under the Offshore Petroleum Activities (Conservation of Habitats) Regulations 2001 (as amended),

4.9 The period of validity of drilling term permits will be related to the duration of the proposed operations. Where information about any chemical use and/or discharge has not been included in the original application and permit, it is possible to apply for a variation to the chemical permit, but the application must be made in advance of the proposed additional chemical use and/or discharge. It is also possible to apply for a variation to extend the duration of the chemical permit, but the application must be made before the current date of expiry of the permit.

#### **Pipeline operations**

4.10 Term permits are also required for the use and/or discharge of chemicals during pipeline installation, commissioning, maintenance, repair and decommissioning operations in connection with offshore petroleum activities in the relevant area, or in connection with offshore gas storage and unloading activities in the reserved area, and must be applied for using the **PON15C**. The PON15C is a dual-purpose form that allows the applicant to apply for a direction confirming that an environmental statement is not required for the pipeline works; and to apply for a chemical permit for the proposed operations. If an Environmental Statement has been approved solely for the pipeline works, or the proposed activities do not require to be the subject of an Environmental Statement or a direction, the PON15C can just be used to apply for the term permit.

4.11 The period of validity of pipeline works term permits will be related to the duration of the proposed operations. Where information about any chemical use and/or discharge has not been included in the original application and permit, it is possible to apply for a variation to the chemical permit, but the application must be made in advance of the proposed additional chemical use and/or discharge. It is also possible to apply for a variation to extend the duration of the chemical permit, but the application must be made before the current date of expiry.

#### **Commissioning / decommissioning operations**

4.12 Term permits are also required for the use and/or discharge of chemicals during offshore installation commissioning or decommissioning operations in connection with offshore petroleum activities in the relevant area, or in connection with offshore gas storage and unloading activities in the reserved area, and can be applied for using the **PON15E**. The PON15E can currently only be used to apply for a chemical permit, but experience suggests that there may be circumstances when activities relating to commissioning or decommissioning require a direction confirming that an environmental statement is not required. The PON15E is therefore currently being converted to a dual-purpose form that will allow the applicant to apply for a direction or a chemical permit, or both, depending upon the nature of the proposed activities.

4.13 The period of validity of commissioning and decommissioning chemical permits applied for using the PON15E will be related to the duration of the proposed operations. Where any chemical use and/or discharge have not been included in the original application and permit, it is possible to apply for a variation to the chemical permit, but the application must be made in advance of the proposed additional chemical use and/or discharge. It is also possible to apply for a variation to extend the duration of the chemical permit, but the application must be made before the current date of expiry.

4.14 Where the installation being commissioned or decommissioned will require, or is already the subject of, a production, storage or unloading permit, the chemical permit for the commissioning or decommissioning operations can also be applied for by submitting an application or variation using the PON15D instead of applying for the chemical permit using the PON15E, but the application must be made in advance of the proposed chemical use and/or discharge.

#### **Well intervention / work-over operations**

4.15 Term permits are also required for the use and/or discharge of chemicals during well intervention / work-over operations in connection with offshore petroleum activities in the relevant area, or in connection with offshore gas storage and unloading activities in the reserved area, and can be applied for using the **PON15F** (or covered by a PON15D as outlined above). The PON15F can currently only be used to apply for a chemical permit, but experience suggests that there may be circumstances when activities relating to intervention / work-over operations require a direction confirming that an environmental statement is not required. The PON15F is therefore currently being converted to a dual-purpose form that will allow the applicant to apply for a direction or a chemical permit, or both, depending upon the nature of the proposed activities.

4.16 The PON15F can be used to apply for a chemical permit for a single well intervention / work-over operation or for a series of well intervention / work-over operations to be undertaken at the same geographical location, e.g. a series of intervention / work-over operations at a single installation, or using a vessel or rig located within

the safety zone of a single installation, or a series of intervention / work-over operations at a subsea well cluster or centre, providing all the operations are to be undertaken in the same calendar year.

4.17 The period of validity of well intervention / work-over chemical permits will either be related to the duration of the proposed operations, or will be valid to cover a number of operations during a single calendar year. In both cases, where any chemical use and/or discharge has not been included in the original application and permit, it is possible to apply for a variation to the chemical permit, but the application must be made in advance of the proposed additional chemical use and/or discharge. It is also possible to apply for a variation to extend the duration of a chemical permit relating to a specific operation, providing the application is made before the current date of expiry, but an "annual" permit covering multiple intervention / work-over operations will always expire on 31 December of the relevant calendar year.

4.18 Where the intervention / work-over operations are being undertaken at an installation that is already the subject of a production permit, or from vessels or rigs located within the safety zone of that installation, the intervention / work-over operations can be added to that permit by submitting a variation to the PON15D, instead of applying for the chemical permit using the PON15F, but the application must be made in advance of the proposed chemical use and/or discharge.

### **Well suspension and abandonment operations**

4.19 Where a well is to be suspended or abandoned, applicants were allowed to include details of the chemical permitting requirements in their application for the Petroleum Act suspension or abandonment consent, using the PON5 Part 2. That system has not worked efficiently or effectively for abandonment operations, as there is often a requirement to amend the proposed chemical use and/or discharge, and there is no variation facility for the PON5 Part 2. Industry has therefore requested that the application process should be changed.

4.20 In future, formal term permits will be required for well suspension and abandonment operations in connection with offshore petroleum activities in the relevant area, or in connection with offshore gas storage and unloading activities in the reserved area, if the proposed activities involve the use and/or discharge of offshore chemicals, and permits can be applied for using the **PON15F**. Conversion of the PON15F to a dual-purpose form will also allow the applicant to apply for a direction or a chemical permit, or both, depending upon the nature of the proposed well suspension or abandonment activities.

4.21 In the same way that the PON15F can be used to apply for a chemical permit for a single well intervention / work-over operation or for a series of well intervention / work-over operations, the PON15F will also allow the applicant to apply for a chemical permit for a single well suspension or abandonment operation or for a series of well suspension or abandonment operations to be undertaken at the same geographical location and in the same calendar year.

4.22 The period of validity of well suspension or abandonment chemical permits will either be related to the duration of the proposed operations, or will be valid to cover a number of operations during a single calendar year. In both cases, where any chemical use and/or discharge has not been included in the original application and permit, it is possible to apply for a variation to the chemical permit, but the application must be made in advance of the proposed additional chemical use and/or discharge. It is also possible to apply for a variation to extend the duration of a chemical permit relating to a specific operation, providing the application is made before the current date of expiry, but an "annual" permit covering multiple suspension or abandonment operations will always expire on 31 December of the relevant calendar year.

4.23 Where the well suspension or abandonment operations are being undertaken at an installation that is already the subject of a production permit, or from vessels or rigs located within the safety zone of that installation, the suspension or abandonment operations can be added to that permit by submitting a variation to the PON15D, instead of applying for the chemical permit using the PON15F, but the application must be made in advance of the proposed chemical use and/or discharge.

4.24 Where the suspension or abandonment operations relate to a well that is already the subject of a drilling chemical permit, and that permit has not expired, the suspension or abandonment operations can be added to that permit by submitting a variation to the PON15B, instead of applying for the chemical permit using the PON15F, but the application must be made in advance of the proposed chemical use and/or discharge. Similarly, where the suspension or abandonment operations relate to a well that is already the subject of an intervention / work-over chemical permit, and that permit has not expired, the suspension or abandonment operations can be added to that permit by submitting a variation to the existing PON15F, but the application must be made in advance of the proposed chemical use and/or discharge.

4.25 Irrespective of the method of application for a well suspension or abandonment chemical permit, it will still be necessary to complete a PON5 Part 2 to support the application for a Petroleum Act suspension or abandonment consent. However, the PON5 Part 2 will be amended to avoid duplicating any information that will be included in the relevant chemical permit application.

### **Disposal of surplus chemicals**

4.26 One effect of the Amendment is that the Regulations are extended to include the offshore disposal of chemicals that cannot be reused, recycled or more appropriately disposed of onshore, and the disposal operations will now constitute a 'discharge' requiring a permit. These operations were previously regulated under the Food and Environment Protection Act 1985, Part II Deposits in the Sea.

4.27 An application to dispose of chemicals that were originally intended for use in connection with offshore petroleum activities in the relevant area, or in connection with offshore gas storage and unloading activities in the reserved area, can be made using the PON15 that is appropriate for the activity that was being undertaken, e.g. if the chemicals relate to a drilling operation, the permit can be applied for using the PON15B. All applications must demonstrate that offshore disposal represents Best Environmental Practice (BEP), and that reuse, recycling or onshore disposal are not more appropriate alternatives.

4.28 Examples of circumstances when offshore disposal might represent BEP are the disposal of benign water-based drilling fluids, where reuse, recycling or onshore disposal is not feasible or would be undesirable, and/or would entail excessive costs; the disposal of drilling and completions brines that have been prepared for a specific operation and cannot be reused or recycled, and onshore disposal would be undesirable; and the disposal of wet cement prepared for an operation that has to be aborted and there is no feasible alternative to immediate disposal (see 'Emergency Variations' below). Offshore disposal of a wider range of materials may also represent BEP if the method of disposal is injection beneath the seabed, providing the materials are unlikely to be re-produced and ultimately discharged to sea.

4.29 In all cases, the quantities scheduled for disposal will be expected to be reasonable, and full details of the proposed disposal operations must be included in the permit application. In the case of applications relating to the contingency disposal of materials, e.g. for the disposal of batches of wet cement that are prepared for operations that have to be aborted, approval may also be conditional upon prior notification of the contingency disposal requirement to confirm the circumstances relating to the proposed disposal operation and that the quantities are in line with the permit application.

4.30 Chemical permits will not normally be issued to cover the offshore disposal of large quantities of unwanted materials, such as bentonite or dry cement, that should be retained onboard for future use or transported onshore for recycling; or to cover disposal of materials on a vessel or rig at the end of a contract because they are not required for the next contract. Chemical permits will not be issued to cover the offshore disposal of unwanted materials that are onboard vessels or rigs that are in transit between installations or between installations and ports or anchorage locations.

### **Discharge of "oils"**

4.31 Chemicals that are, or contain, hydrocarbons and are used and/or discharged in connection with offshore petroleum activities in the relevant area, or in connection with offshore gas storage and unloading activities in the reserved area, are subject to the same provisions as other offshore chemicals, and controlled under the Regulations. Reservoir hydrocarbons, and other hydrocarbons that are not notified chemicals, are not controlled under the chemical permitting regime, and their discharge is controlled under the Offshore Petroleum Activities (Oil Pollution Prevention and Control) Regulations 2005 (as amended), the OPPC Regulations.

4.32 All discharges of reservoir hydrocarbons, and other hydrocarbons that are not notified chemicals, must be the subject of an OPPC oil discharge permit. If a discharge of offshore chemicals is likely to be contaminated with reservoir hydrocarbons, for example a discharge of drilling fluids or well-bore clean-up fluids, a separate application for an OPPC permit to cover the reservoir hydrocarbons must be requested from the Department's Offshore Environmental Inspectorate.

4.33 Applicants should refer to any associated discharges of reservoir hydrocarbons in their PON15 applications, and confirm whether they have submitted an application for an OPPC permit. Further information in relation to the scope of the OPPC Regulations, and how to apply for an OPPC permit, can be found in the OPPC Guidance Notes for Industry at:

<https://www.og.decc.gov.uk/environment/opaoppcr.htm>

## **HOW TO APPLY FOR A PERMIT**

5.1 With the exception of the PON15E, all chemical permit applications and subsequent transactions, including the issue of the permits, are carried out electronically via the UK Oil Portal. Work has started to add the PON15E to the Portal system, so that all applications can be completed on-line and submitted electronically to the Department's Environmental Management Team based in Atholl House, Aberdeen. For further information in relation to obtaining access to the Portal system, which is similar to the Well Operations and Notification System (WONS), please contact [ukop@decc.gsi.gov.uk](mailto:ukop@decc.gsi.gov.uk).

5.2 Although all permit applications will be processed electronically, the procedure will vary according to the type of activity involved (production operations, storage operations, unloading operations, drilling operations, pipeline works, commissioning / decommissioning operations, intervention / work-over operations or well suspension / abandonment operations).

### **Who can apply for a permit?**

5.3 Chemical permits (and other environmental approvals, such as directions and consents) will normally only be issued to the operator of the acreage, the field, the storage complex or the unloading facility. The Department will therefore usually only grant a permit to the company appointed as the operator by the licence group or, if there is only one company on the licence, the licensee. However, the Department may also grant a permit to a company appointed as the operator by the licence group or licensee in respect of a single activity, for example a company appointed as the operator for the drilling of a well under "farm-in" or "earn-in" arrangements. The permit holder will be legally responsible for ensuring that the Regulations are adhered to.

5.4 It is acknowledged that in some cases a company other than the permit holder may be responsible for undertaking the works. This could be the owner of the installation; the duty holder of the installation; a company contracted to "operate" the installation; or a company contracted to undertake specific works on behalf of the operator.

5.5 Any third party acting on behalf of the operator may prepare and submit a permit application, but the application must be made in the name of the operator (as described in paragraph 5.3) and any permit issued will be in the name of that operator.

5.6 Where there are assets tied-back to an installation used in connection with offshore petroleum activities in the relevant area, or in connection with offshore gas storage and unloading activities in the reserved area, the operator of the tied-back installation will usually only be required to obtain a separate permit if there is direct use of chemicals at the tied-back installation (irrespective of whether there is a consequent discharge). Use of chemicals at the host installation resulting in discharges at the tied-back installation, usually referred to as use and/or discharge mediated via the host installation, will normally be included in the relevant permits relating to the host installation. Under these circumstances the holder of the host installation permit would have to apply to vary the relevant permit to include details of any new assets or to incorporate chemical changes related to activities at the tied-back installations.

### **Content of an application**

5.7 Regulation 6 details what a permit application should contain. The information must include:

- a brief description of the offshore installation on or from which the chemicals are to be used and/or discharged and its location;
- a brief description of any technology and/or technique which would be used to prevent or minimise the use and /or discharges;
- a brief description of the measures intended to monitor the use and/or discharge of any chemicals; and
- a risk assessment, incorporating details of any chemicals that could pose a risk and an impact assessment.

Under regulation 15(1), applicants are also required to provide a brief description of the measures intended to prevent and respond to accidental events during the course of the operations covered by the permit.

5.8 All applications will be checked for completeness. The Regulations allow the Secretary of State to request any further information that is considered necessary to properly consider the application, and this power would be used if any submission is deemed to be insufficient or incorrect.

## **Contingency use and/or discharge of chemicals**

5.9 Applications for permits should not be restricted to the primary chemicals that will definitely be used and/or discharged during the course of the operations that are the subject of the application, but should also include those chemicals that may be needed on a contingency basis (for example, chemicals to be used in the event of problems that might be encountered during drilling operations).

### **The risk assessment**

5.10 Applications must include an assessment of the potential risks to the environment related to the proposed use and/or discharge of the chemicals. This should be taken into consideration before applying for a permit (or a permit variation). For some chemicals, e.g. those on the OSPAR PLONOR list (chemicals that are assessed to Pose Little Or NO Risk), the assessment will generally be straightforward as the risk will be trivial. Most proposed use and/or discharge will, however, require a formal process of risk assessment, using CHARM or similar software. This process, involves determining the predicted environmental concentration (PEC), derived from data relating to individual substances or preparation characteristics and the conditions of use, and comparison with the Predicted No-effect Concentration (PNEC) derived from toxicity tests conducted to agreed protocols. The PEC:PNEC ratio facilitates informed assessments of the risk for each use and/or discharge scenario, which can be considered in the light of local sensitivities.

5.11 A major thrust of the risk assessment process should be the selection and application of the most environmentally benign chemicals. The search for the 'best' alternative will include consideration of the publicly available lists of notified chemical products, which are ranked by hazard within specific function groups. These lists can be viewed on the CEFAS website.

5.12 Once a chemical has been selected, it will be necessary to conduct a site specific risk assessment. To do this, it will be necessary to access the ecotoxicological information used by CEFAS to calculate the generic CHARM Hazard Quotient (HQ), and to use the information to generate a Risk Quotient (RQ) using installation specific data. If the chemical is Non-CHARMable, then it will not be possible to calculate an HQ, and the risk assessment must be based on the information used to assign the chemicals to their Offshore Chemical Notification Scheme (OCNS) Group.

5.13 The Department recognises that permit applicants need this ecotoxicological information, but also appreciates the concerns of chemical suppliers that commercially sensitive information should not be placed in the public domain. CEFAS will therefore issue a "template" to the chemical manufacturer or supplier that will contain the information required to undertake the risk assessment, but the template will not contain confidential information relating to the precise composition of the preparation. The manufacturers or suppliers will then make the template available to companies interested in using the chemical. This arrangement will enable applicants to perform their risk assessments without compromising any confidentiality relating to the composition of the preparation. Additional information can also be shared between applicants and suppliers as part of the normal customer / supplier relationship.

5.14 PEC estimations must be based on a knowledge of the individual substances (amount and dosage), the product chemistry (partitioning behaviour between oil and water) and the conditions of use (where it is added in the process stream, and whether the use is transient or continuous), together with a knowledge of the presumed or measured dilution and dispersion following discharge.

5.15 The risk assessment process should separately consider the toxicity of the chemicals present in a discharge, calculate the dispersion / dilution rate and, where there is the potential for effects upon local sensitivities such as spawning grounds, should estimate the area of potential biological effect. It is essential that the risk assessment includes a reasoned argument for the use of the selected chemical products, and that this is balanced against the potential for negative effects upon local sensitivities. The assessment may also need to consider operational / commercial requirements for product use, and/or refer to monitoring data or specific knowledge that enables a more accurate prediction of the chemical fate and effects.

5.16 Applicants may use risk assessment models other than CHARM to prepare their PEC:PNEC ratios or RQ estimates. If other models are used, it will be necessary (at least on the first occasion of their use) to provide some background information. This information should include an outline description of the model and describe the underlying datasets used to construct and calibrate the model. It will normally also be necessary for the assessment algorithm and the input parameters to be tabulated and appended to the risk assessment. Where available, reference should also be made to published examples of the use of the model. These requirements would, however, be waived for use the DREAM model, as the Department already holds the relevant information.

5.17 If a chemical has a generated RQ value of less than 1 and/or the OCNS group is D or E, this will normally be sufficient justification for the use of a chemical product providing there are no known local sensitivities. If a chemical has a generic HQ value or a generated RQ value of greater than 1, and/or the OCNS group is A, B or C, and/or the chemical is, or contains, a substance on the OSPAR List of Chemicals for Priority Action, and/or the chemical is, or contains, a substance that has been assessed as an OSPAR Candidate for Substitution, the use of the chemical must be justified including, where appropriate, an explanation of relevant risk mitigation measures. Consideration of alternative products to demonstrate whether they would represent a lower environmental risk should also form part of the overall risk management process.

5.18 Risk-based justifications must be included in all PON15 applications, and should be tailored to address the specific conditions of use and/or discharge detailed in the application. They should be supported by the technical justifications that form part of the Annual OSPAR Chemical Goals Report (see paragraph 11.8). Further guidance on risk assessment can be found on the CEFAS website.

#### **Applications subject to Public Notice**

5.19 Applications that are not covered by the circumstances set out in regulation 7(2) of the Regulations will be subject to Public Notice requirements. This would include applications for chemical permits for offshore production, storage or unloading installations serving new developments, and applications for drilling or pipeline chemical permits where the well or pipeline has been the subject of a stand-alone Environmental Statement.

5.20 All applications that are subject to Public Notice requirements will be acknowledged in writing, and the acknowledgement letter will include details about the Public Notice procedure, including the Departmental contact name and reference number to be inserted in the Public Notice.

5.21 The Public Notice should be published in newspapers that will come to the attention of any persons likely to be interested or affected by the proposals, and the Department's acknowledgement will provide information about how this requirement can be met. A suggested version of a notice is appended at Annex C. The notice will state where a copy of the application can be viewed or obtained, and provide a date which is at least 28 days from the date of the last publication in the newspapers, during which time the copy can be viewed or obtained, and comments can be submitted to the Secretary of State. Applicants can make a reasonable charge for the provision of a copy of the application, calculated by reference to the cost of printing and distributing copies, up to a maximum of £10. Any comments received by the Department on behalf of the Secretary of State will be reviewed and may be sent to the applicant shortly after the end of the Public Notice period to seek a response.

#### **Applications not subject to Public Notice**

5.22 An application will not be subject to the Public Notice requirements in the circumstances set out in regulation 7(2) of the Regulations. In particular, most applications for term permits, for drilling operations, pipeline works, commissioning / decommissioning operations, intervention / work-over operations, or well suspension / abandonment operations would be excluded from the Public Notice requirements under regulation 5A(5) (although applicants should satisfy themselves whether this is the case). The Public Notice provisions in regulation 5A only apply to new permit applications; all applications for the renewal or variation of a permit will not be subject to the Public Notice requirements.

#### **Consultation**

5.23 The Department will notify receipt of all applications to CEFAS (for activities in English and Welsh waters) or MS (for Scottish waters) via the UK Oil Portal. The Department may also consult JNCC and/or other persons who might have an interest in the proposals. If the proposed discharges could also impact the marine environment of another country, a copy of the application will also be sent to the relevant Regulatory Authority in that country. All consultees will be requested to provide their comments within a reasonable deadline.

5.24 CEFAS or MS is responsible for reviewing the chemical risk assessment and providing comments to the Department under contractual arrangements detailed in Memoranda of Understanding (MoUs) / Service Level Agreements (SLAs).

5.25 Following receipt of the consultees' comments, including any made in response to a Public Notice, any outstanding issues, including points arising from the consultation, will be clarified with the applicant before the Department determines the application for the permit, or determines the application for a variation of the permit. The consultation process is therefore very similar to that applied for applications under the EIA Regulations, and in most cases the two consultation processes will be carried out in tandem.

## **Determination of applications**

5.26 The Department will review the application and the consultees' comments, and any supplementary information provided by the applicant, for the purposes of determining the applications on behalf of the Secretary of State in accordance with regulation 4 (grant and refusal of permits). The Department will also take account of the relevant OSPAR requirements. Applications will either be approved or rejected. If an application is approved, conditions will be included in the permit to reflect the requirements detailed in regulation 5 (conditions of permits). If the application is rejected, an explanation will be provided, and this would normally lead to dialogue with the applicant.

## **Amendments to permit applications**

5.27 The Department will consider an applicant's request to update an application after its submission, but there is no right to make an update under the Regulations, and whether it is possible to accept the update will depend on the stage reached in the process and on the scale of the change or changes that the applicant wishes to make to the application.

5.28 In the case of requests relating to applications that are subject to Public Notice, if the notice has been advertised it will not be possible to make an update. The Department will therefore advise the applicant whether the application should be withdrawn and the Public Notice process restarted, or whether the applicant should wait until the original application has been reviewed and determined and then submit a request for a variation to amend the permit. The Department's advice will take account of the scale of the change or changes to the application. Where the changes are considered to be substantial (see paragraphs 6.10 and 6.11), it will always be necessary to withdraw the application and restart the Public Notice process.

5.29 In the case of requests relating to applications that are not subject to Public Notice, if the consultation process has commenced, it will generally not be possible to make an update and, if the Department's post-consultation review process has commenced, it will not be possible to make an update. The Department will therefore advise the applicant that they must wait until the original application has been reviewed and determined and then submit a request for a variation to amend the permit.

5.30 Where an update is allowed, it must be made by amending the original application and summarising the changes in the update / variation list appended to the application. Any change in chemical use and/or discharge will necessitate a new risk assessment for the relevant chemical or chemicals, with appropriate changes made to the chemical tables and the justification section of the application.

## **PERMIT VARIATIONS**

### **Change of chemical use and/or discharge**

6.1 Variations are requests for amendments made after the permit has been issued to the permit holder.

6.2 Requests for variations must be made by amending the most recent version of the application, and must be summarised in the Update/Variation list appended to the application. Any change in chemical use and/or discharge will necessitate a new risk assessment for the relevant chemical or chemicals, with appropriate changes made to the chemical tables and the justification section of the application.

6.3 Permit holders must apply for a variation to the terms of, or conditions attached to, a permit if they propose to make changes in relation to the use and/or discharge of chemicals. However, it is not necessary to request a variation if the changes relate solely to the scale of use and/or discharge of permitted chemicals, and the proposed increases are less than 10% of the currently permitted totals.

6.4 Permit holders must apply for a variation, and receive approval, in advance of making any of the changes detailed in the application for the variation.

6.5 All requests for variations will be acknowledged, and all variations will be held by the Department alongside the original permit application.

6.6 Chemical permit variations can only be requested if the current version of the permit is still valid and has not expired.

### **Change of chemical supplier**

6.7 If a chemical is supplied under a generic name, it is unnecessary to request a variation to change to the same product purchased from a different supplier. As long as the new supplier uses the same generic chemical name and there is no difference between the two products, the operator can change suppliers without advising the Department. Under such circumstances, the name of the original supplier should be used when completing the chemical use and discharge return (see paragraphs 11.1 – 11.5).

### **Determinations**

6.8 All requests for variations will be considered by the Department's Environmental Management Team, and they may wish to consult CEFAS or MS, or other consultees as considered appropriate. Any outstanding issues, including points arising from any consultation, will be clarified with the applicant before the Department determines the application for the variation of the permit.

6.9 Where a variation is not considered to constitute substantial change, a revised permit can be issued, including new terms and conditions if these are necessary. Where an application for a variation is refused, it will not affect the validity of the existing permit.

### **Substantial Change**

6.10 The definition used in the Regulations is:

“substantial change” means a change in the type, quantity, frequency or location of the use or discharge of an offshore chemical which may have significant negative effects on people or the environment.

6.11 Where the Department determines that a variation would constitute substantial change, the request will be refused and the permit holder will be requested to apply for a new permit to authorise the amended use and/or discharge of chemicals that were the subject of the request for the variation. The refusal of the application would not affect the validity of the existing permit.

### **Emergency variations**

6.12 It is acknowledged that, for some operations, unforeseen changes in relation to the use and/or discharge of chemicals may be required, sometimes at very short notice. In such circumstances, it will still be necessary to request a variation of the chemical permit. However, if the requirement is urgent, it is also acknowledged that it may be impractical for the permit holder to formally apply for a revised permit within the necessary timescale. In such circumstances, the permit holder should contact the Department as soon as possible, and before making the proposed changes.

6.13 Requests for emergency variations can be initiated by telephone or electronically by fax or e-mail. During normal working hours, requests should be directed to the Department's Environmental Management Team. Outside those hours, requests should be directed to the On-call Offshore Environmental Inspector, who can be contacted via the Department of Business, Innovation & Skills (BIS) 020 7215 3505/3234. All verbal requests must be followed up by a written request and the issue of an interim written approval, prior to implementing the proposed changes. E-mail is the preferred contact mechanism, although other options such as text messages can be discussed at the time of the verbal request. A formal variation to the PON15 must be submitted to the Department within two working days of any emergency approval being granted.

6.14 If a new permit, or a permit variation, or an interim written approval, has not been issued to authorise any emergency changes, any use or discharge related to the changes will be unpermitted, contrary to the Regulations. However, a defence may be available under the Regulations if the use and/or discharge of the chemicals could not reasonably be prevented, or was due to something done as a matter of urgency for the purposes of securing the safety of any person. In those circumstances, it is unlikely that enforcement action would be taken against the person responsible, providing they had taken all reasonable steps to avoid using and/or discharging any chemical without authorisation.

### **Amended drilling proposals**

6.15 All PON15Bs must be linked to the relevant WONS well file for the drilling consent application (PON4). In cases where the PON15B applicant has still to apply for drilling consent, it will be necessary to create a skeletal drilling consent application, which will generate a WONS well file number that can be included in the PON15B. In cases where the PON15B applicant has already applied for drilling consent, the WONS well file number can be obtained via the UK Oil Portal.

6.16 During the course of a drilling operation, it may be necessary to amend the proposals, for example to add an additional side-track. If the amended drilling proposals have not been included as a contingency in the original PON15B application, then it will either be necessary to submit an application for a new chemical permit, or to submit an application for a variation of the existing chemical permit to cover the proposed use and/or discharge of chemicals associated with the amended proposals.

6.17 If the amended drilling proposals are likely to be classified as a re-drill, it will normally be necessary to submit a new PON15B application, which should include reference to the original PON15B application. The new application should be linked to the WONS well file number and well file section detailed in the change to the PON4. Providing the applications are related in this manner, it will be possible to generate the new application from a copy of the original application, and will only be necessary to re-complete Section A (General Information), Section C (Justification), Section D (Well Information) and Section G (Chemical Usage) for the new drilling proposals. The Department will give priority to the new PON15B, and endeavour to process the application within a timescale that will not delay the proposed works. When the works are allocated a new WONS well file number, the Department will link the new PON15B application to the new WONS well file.

6.18 If the amended drilling proposals are unlikely to be classified as a re-drill, e.g. it is a geological sidetrack notified as a new well file section, permit holders should request a chemical permit variation, which will be processed immediately. The amended application should again be linked to the WONS well file number and well file section detailed in the change to the PON4.

## **FEES**

7.1 For information on charging, please refer to the current charging scheme which can be found at:-

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/446287/OCR\\_2015 -  
\\_2016\\_Charging\\_Scheme\\_16\\_July.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/446287/OCR_2015_-_2016_Charging_Scheme_16_July.pdf)

## **REVIEW OF PERMITS**

8.1 Regulation 12 (reconsideration of permits and permit conditions) allows the Secretary of State to review, at such intervals as she (or he) thinks fit, the conditions of any permit issued. For example, there will be a regular review of the open-ended production, storage and unloading permits. The Secretary of State is also required to review permits in circumstances where in her (or his) opinion the pollution or risk of pollution caused by use and/or discharge of chemicals is of such significance that permit restrictions should be revised.

8.2 The regular review of production, storage and unloading permits, the PON15D Major Revision, will be undertaken approximately every three years, although this period may be extended if there is general satisfaction in relation to the matters to be addressed during the review. This review will be undertaken by the Department in conjunction with CEFAS and MS as appropriate. It will involve permit holders submitting an updated PON15D application to the Department, which would have to include a new forward look of chemical use and/or discharge.

8.3 This review will cover such matters as:-

- compliance with the terms of, and conditions attached to, the permit;
- whether the terms and conditions are still adequate to protect the marine environment;
- whether technical changes would reduce the level of use and/or discharge of chemicals;
- whether less hazardous chemicals have become available; and/or
- whether technical changes are necessary for operational safety.

This list is not exhaustive, and there may be other matters that need to be taken into consideration.

8.4 Links to guidance relating to the major revision process, and how it should be undertaken via the UK Oil Portal, are appended at Annex G.

8.5 There will be no routine requirement to attend an interview to discuss the PON15D Major Revision, although permit holders should be prepared to attend any meetings that are considered necessary to address any issues that arise during the review process.

## **TRANSFER OF PERMITS**

9.1 When an asset is to be sold or assigned to another operator, it will be necessary to apply to transfer all of the relevant chemical permits relating to the offshore installations associated with that asset to the new operator, and to obtain the Department's consent to the proposed transfer under regulation 12A.

9.2 The transfer process should be initiated by the new operator, who must write to the Department's Environmental Management Team, on headed notepaper, outlining their intention to take over operatorship of a particular installation or installations at a specified time on a specified date. The letter should be copied to the existing operator. The Department's Environmental Management Team will reply to the new operator:

- confirming any outstanding issues that must be resolved before the transfer can be effected;
- confirming all the relevant chemical permits that need to be transferred;
- in exceptional circumstances, advising the new operator of any permits that cannot be transferred and must be the subject of a new application;
- advising the new operator to contact the existing operator to ask them to write to the Department's Environmental Management Team to request the transfer and to confirm when the transfer of the existing permits to the new operator should take place;
- as it is likely that most, if not all, of the chemical permits will be maintained on the UK Oil Portal, advising the new operator how to set up a Portal account (if they do not already have a Portal account); and
- providing the names and contact details of the Department's Environmental Manager and Offshore Environmental Inspector who will be assigned to the new operator (if they do not already have an assigned Environmental Manager or Offshore Environmental Inspector).

9.3 The existing operator will be the permit holder, and they must therefore request the transfer and confirm when the transfer should take place. Following receipt of the existing operator's request, the Department's Environmental Management Team will notify the existing operator (copied to the new operator):

- confirming any outstanding issues that must be resolved before the transfer can be effected;
- requesting that copies of all current permits that are not maintained on the UK Oil Portal, and any associated application forms and relevant correspondence relating to any variations of those permits, should be forwarded to the new operator;
- requesting that arrangements are agreed with the new operator with respect to any on-going monitoring and/or reporting requirements that are a condition of the relevant permits;
- confirming the relevant permits that will be transferred to the new operator at the specified time on the specified date.

9.4 The Department may require the existing operator or the proposed new operator to supply additional information to support the request for a transfer of the existing permits. This will be requested in writing.

9.5 Where consent is given for the transfer, electronic copies of the relevant permits that are not maintained on the UK Oil Portal will be varied and transferred to the new operator on the specified date or on the next working day if the specified date is during a weekend or public holiday.

9.6 In the case of permits that are maintained on the UK Oil Portal, the new operator's account will be activated on the specified date (subject to the working day limitation outlined above), and the new operator will be able to access all the relevant applications and permits via their Portal account. The new operator will be able to "manage" their Portal account, and create a list of relevant contacts and their access rights.

9.7 When the new operator receives, or has Portal access to, the copies of the current applications, permits etc, they must review the documents to determine whether there are any aspects that could prevent them from undertaking the activities in compliance with the existing permit terms and conditions. If such aspects are identified, the new operator should contact the Department at the earliest opportunity.

9.8 The new operator must identify whether any amendments are required to take account of the new operator's details, operating practices, procedures, policies or commitments. If any changes are required, the

new operator must submit an application for a variation within 8 weeks of the transfer date (and before undertaking any operation that is not currently permitted under the existing terms and conditions of the permit). All changes must be clearly highlighted in order to identify any deletions or additions to the original application. Where the Department determines that the variation would constitute substantial change, the application for a variation will be refused and the permit holder will be requested to apply for a new permit to authorise the amended use and/or discharge chemicals. Should the Department determine to refuse any application, or to vary the terms of, or conditions attached to, an existing permit, it will give notice in writing of its decision and discussions will take place with the new operator.

9.9 Should the Department wish to review the terms and conditions of any of the transferred permits, they will contact the new operator in writing and confirm their requirements. The latter may include submission of a new or amended application.

9.10 New operators are reminded that the Department may revoke any existing permit if the application contains or is supported by any information or statement which is false or misleading.

9.11 Further information in relation to the process to be followed for the transfer of chemical permits and all other environmental applications, permits, consents and approvals can be found on the Department's Oil and Gas website at:

[https://www.og.decc.gov.uk/environment/environ\\_lo.htm](https://www.og.decc.gov.uk/environment/environ_lo.htm)

## **SURRENDER AND REVOCATION OF PERMITS**

### **Surrender of permits**

10.1 A permit holder may surrender their permit at any time by notifying the Department in writing detailing the date on which the permit is to be surrendered. The Department will confirm in writing that the permit has been surrendered on the due date.

10.2 Permit holders are encouraged to surrender any permits that are no longer required, for example where no further activities requiring a permit are scheduled to take place.

10.3 Before surrendering a permit, the permit holder must ensure that all relevant obligations associated with the permit or any of its terms or conditions, for example monitoring and reporting requirements, have been met.

### **Revocation of permits**

10.4 If it comes to the notice of the Department that an application for a chemical permit, or any other application made under the Regulations was misleading or false, or that any of the permit conditions are being or have been breached, then the Regulations allow for the permit to be revoked.

10.5 If, following an investigation carried out in accordance with the Department's Enforcement Policy, the decision is reached to revoke a chemical permit, a letter will be sent to the permit holder stating the reasons for the revocation.

10.6 If a chemical permit is revoked, the uses and/or discharges affected by the revocation must cease from the date of the revocation. A new permit application must then be submitted to cover the affected uses and/or discharges, and the re-commencement of those uses and/or discharges will not be permitted until the necessary approval has been obtained from the Department.

10.7 If the permit holder wishes to appeal the decision to revoke a chemical discharge permit, the appeal process is as described in the Department's Enforcement Policy. A copy of the policy can be found at:

<https://www.og.decc.gov.uk/environment/enforcement.htm>

## **PERMIT REPORTING REQUIREMENTS**

11.1 The terms of, and conditions attached to, a permit will stipulate any information that must be provided to the Department or other authorities, and the required reporting procedure. A standard feature of all chemical permits is that there will be a reporting requirement associated with the planned operational use and/or discharge of the chemicals included in the permit. The normal reporting route will be via the Environmental Emissions Monitoring System (EEMS) database, which incorporates relevant reporting forms and guidance. Any additional or alternative reporting requirements will be detailed in the conditions attached to a permit.

11.2 Reports will typically cover:

- the name of the permit holder;
- the name and location of the installation;
- the date the permit was issued and its reference number;
- the name and quantity of each chemical used; and
- the name and quantity of each chemical discharged into the marine environment.

11.3 EEMS reports relating to production, storage and unloading permits will have to be made on a calendar quarter basis, within 28 days of the completion of each quarter.

11.4 EEMS reports relating to term permits (i.e. for drilling operations, pipeline works, commissioning / decommissioning operations, intervention / work-over operations and well suspension / abandonment operations) must be made within 28 days of the date of expiry of the permit.

11.5 Where a permitted operation has not been undertaken and/or a permitted use and/or discharge of chemicals has not taken place, a relevant "nil return" must be submitted to comply with the reporting requirements.

### **Supplementary annual reporting requirements**

11.6 The Department is required to submit regular implementation reports to the OSPAR Offshore Industry Committee (OIC) in relation to the following Recommendations:

- OSPAR Recommendation 2005/2 on Environmental Goals for the Discharge by the Offshore Industry of Chemicals that are, or contain added Substances, listed in the OSPAR 2004 List of Chemicals for Priority Action; and
- OSPAR Recommendation 2006/3 on Environmental Goals for the Discharge by the Offshore Industry of Chemicals that are, or which contain, Substances Identified as Candidates for Substitution.

11.7 Contracting Parties were required to develop national plans to achieve the goals set out in these Recommendations, and the UK National Plan for the phase-out of candidates for substitution is appended at Annex E. Contracting Parties are also required to regularly report their progress in reducing or phasing-out the discharges of offshore chemicals that are, or contain, substances that have been identified for priority action or identified as candidates for substitution; to inform ongoing discussions relating to the achievement of the goals.

11.8 Permit holders are therefore required to submit an Annual OSPAR Chemical Goals Report to the Department, to enable the Secretary of State to assess progress in implementing the UK National Plan and to comply with the OSPAR reporting requirements. Guidance in relation to this supplementary annual reporting is appended at Annex F.

## **MONITORING REQUIREMENTS**

12.1 Permit holders may be required to undertake monitoring of process streams and the environment around the proposed operations, to confirm the risk assessment and impact hypotheses, and/or to assess the wider-area environmental impacts arising from the discharge of chemicals.

12.2 The Department will take advice as to the monitoring needs at specific locations from relevant consultees, and make provision for the agreed monitoring requirements in relevant permit conditions.

12.3 It is the responsibility of permit holders to use competent laboratories capable of performing the monitoring requirements to agreed protocols. Permit holders will also be responsible for the costs of any monitoring required under the permit conditions.

## **PROVISION OF INFORMATION**

13.1 The terms of, and conditions attached to, a permit will stipulate the information that must be provided to the Department or other authorities, and the required reporting procedure. Permit holders must have systems and procedures in place to ensure that these requirements are met.

13.2 In addition to the permit-specific information referred to in paragraphs 11.1 – 11.5, the Regulations contain specific notification requirements in relation to:

- Providing details of any breach of the permit, or any breach of the terms of, or conditions attached to, any permit:

Details must be forwarded to the Department using the relevant 'Regulatory Non-Compliance Notification Form'. A copy of the form and the guidance is available on the Department's Oil and Gas website at:

<https://www.og.decc.gov.uk/environment/ocr2002.htm>

- Providing details of any use and/or discharge of chemical without prior authorisation from the Department:

Where any chemical is being used and/or discharged and, either a permit is not in place or the use and/or discharge is not included in any permit previously granted to the permit holder, details must be forwarded to the Department using the relevant 'Regulatory Non-Compliance Notification Form'. The only exception to this is where any chemical is being used and/or discharged as a matter of urgency for the purpose of securing the safety of any person. Under these circumstances, the Department and other relevant authorities must be notified using the PON1 Notification Form in accordance with the PON1 Guidance. A copy of the form and the guidance is available on the Department's Oil and Gas website at:

<https://www.og.decc.gov.uk/regulation/pops/index.htm>

- Providing details of any incident resulting in a release of any chemical into the sea:

Details must be forwarded to the Department, and other relevant authorities, using the PON1 Notification Form in accordance with the PON1 Guidance. Where a release has occurred and has been reported via a PON1, any further release or unpermitted discharge from the same release point must be reported every 24 hours, or as directed by the Department's Environmental Inspectorate, by updating the original PON1. The PON1 updates are required regardless of whether the release or unpermitted discharge is continuous or intermittent, and updates must continue until such time as a repair or remedy has been effected and the release or unpermitted discharge has been permanently stopped.

- Providing details of any other incident involving chemicals where there has been, or may be, any significant effect on the environment as a consequence of the pollution

Details must be forwarded to the Department, and other relevant authorities. using the PON1 Notification Form in accordance with the PON1 Guidance.

13.3 Notification obligations and responsibilities must be agreed between the operators of host installations and the operators of any tied-back facilities or installations, and should normally be included in the host installation Oil Pollution Emergency Plan and in contractual or interface documents. Irrespective of any agreement, permit holders are responsible for reporting any regulatory non-compliances relating to either the host installation or any tied-back facilities or installations covered by the permit.

13.4 All releases reported to the Department will be included in the Advisory Committee on Pollution of the Sea (ACOPS) Annual Report.

## **INSPECTIONS AND ENFORCEMENT**

14.1 The Regulations allow for the appointment of Inspectors whose responsibilities are to report to the Secretary of State on whether the requirements, restrictions or prohibitions imposed by or under the Regulations (including the conditions in any permit) have been or are being complied with, and to monitor the use, discharge and release of any offshore chemical. Details of the Inspectors' powers are set out in Regulation 16.

14.2 The Offshore Environmental Inspectors are appointed under the Regulations, and are responsible for inspection, monitoring, investigation and enforcement. All permit holders have an allocated Offshore Environmental Inspector, and details of the allocations can be requested from [offshore.inspectorate@decc.gsi.gov.uk](mailto:offshore.inspectorate@decc.gsi.gov.uk).

14.3 Inspections are undertaken to monitor the permit holders' applicable operations and to ensure compliance with the Regulations and the terms of, and conditions attached to, any permit. Inspections can include any activity considered necessary to check and promote compliance. Activities can include offshore installation site visits; onshore review of chemical management systems; discussions with interested parties; the monitoring of permit returns; the review of independent and self-monitoring audit reports; and the checking of premises, equipment, operations, chemical inventories and use of chemical records maintained by the permit holder. Inspectors will initiate dialogue in relation to compliance issues, both verbally and in writing, and may undertake investigations and take enforcement action where this is warranted.

14.4 The Inspectorate also reviews Regulatory Non-Compliances or PON1 notifications submitted to the Department.

14.5 In accordance with the Department's Investigation and Enforcement Policies, enforcement action may be taken where there has been, or there is likely to be, a contravention of the Regulations, including breaches of the terms of, or conditions attached to, any permit. The Department's Investigation and Enforcement Policies can be found at:

<https://www.og.decc.gov.uk/environment/enforcement.htm>

14.6 Enforcement action, such as the issue of enforcement or prohibition notices, may be taken against any permit holder or, if there is no permit holder, the body responsible for operating the installation. Prosecutions can be brought against any person or body responsible for the non-compliance, the release or the unpermitted discharge. Where there is a permit holder, any notices relating to breaches of the Regulations will normally be served on them, as they have overall responsibility for chemical management. Where breaches result from the actions of a contractor, the permit holder will be expected to resolve issues through their contractual arrangements.

14.8 Enforcement action has three key purposes. It is to ensure that permit holders and other bodies that have duties under the law:

- take preventative or remedial measures to prevent pollution;
- put in place measures to achieve compliance; and
- are held to account when failures to comply occur.

14.9 Proportionality is a key principle of the policies, and action can include verbal advice, a letter, serving an enforcement notice or a prohibition notice, revocation of a permit, and/or prosecution where appropriate.

## **OFFENCES**

15.1 Offences are detailed in regulation 18 of the Regulations. It is an offence to use or discharge chemicals in connection with offshore petroleum activities in the relevant area, or in connection with offshore gas storage and unloading activities in the reserved area except in accordance with the terms of, and conditions attached to, a permit granted in accordance with the Regulations. It is also an offence to release any chemical, or to allow any such release to continue.

15.2 If a person is charged with committing one of these offences, the person has a defence if they are able to prove that the contravention arose as a result of something which could not reasonably have been prevented, or was done as a matter of urgency for the purposes of securing the safety of any person. However, this defence cannot be used if the action taken was not a reasonable step to take in the circumstances, or if it was reasonable but the necessity of taking that step was the fault of the person (including circumstances relating to their negligence).

15.3 Other offences include:

- knowingly or recklessly making a false statement, for example in an application;
- obstructing an Inspector, for example by denying access to an installation or impeding an inspection;
- failing to supply information required to be supplied under the terms of, or conditions attached to, the permit, for example by withholding returns; and
- failing to comply with a notice issued by the Secretary of State or an appointed Inspector.

## **Releases of chemicals**

15.4 Unintentional incidents may occur during the course of offshore operations, and result in the release of chemicals to the sea. For example, chemicals may enter the sea as a result of leaks, spillages, tank overflows, etc. Operators are therefore expected to take the necessary measures to prevent incidents that may give rise to any release of chemicals to the sea.

15.5 In the event of a release of a chemical, it must be reported to the Department's Offshore Environmental Inspectorate within six (6) hours of detection of the release using the PON1 Notification Form and in accordance with the PON1 Guidance. The Inspectorate will decide what action to take in accordance with the Department's Investigation and Enforcement Policies (see paragraphs 13.1 - 13.3, Provision of Information).

15.6 Permits cannot be obtained to cover potential or confirmed releases of chemicals. If a release occurs, a permit will not be issued for any subsequent, continual or intermittent emission from the same release point, if the release relates to any equipment or infrastructure not operating, or not being operated, in accordance with normal operating practice or the intended design. The Department does not consider the systemic release of chemicals to be an incidental or unavoidable part of an operation.

15.7 If the source of a release is identified and the release is continued, the emission would have to continue to be notified using the PON1 Notification Form and in accordance with the PON1 Guidance (see paragraphs 13.1 – 13.3, Provision of Information).

## **Normal operation and intended design**

15.8 Uses and/or discharges associated with the normal operation or intended design of equipment can be approved under the permitting regime. The quantities included in the chemical permit application should be based upon the rate of use and/or discharge that is anticipated as part of the normal operation or intended design. For example, the quantities of chemicals added to the hydrocarbon production or produced water streams on a continuous basis should be based on the normal dosage and the estimated production or produced water volumes; the quantities of chemicals used for batch treatments should be based on the normal dosage and the estimated number of treatments; and the quantities of chemicals used to actuate open-system valves should be based on the manufacturer's specification of the volume required to operate the valve and the estimated number of valve actuations.

15.9 If there is an increase in the rate of use and/or discharge of a chemical as a result of a change in the normal operating procedure, and the permitted quantities are likely to be exceeded, for example because the chemical dosage has been increased or because there has been more frequent actuation of a valve that has

resulted in additional use and/or discharge, a variation of the chemical permit can be requested to cover the increases.

15.10 If there is an increase in the rate of use and/or discharge of a chemical as a result of an unintentional or unplanned leakage of a chemical, the emission of the chemical via the leak is considered to constitute a release as defined in the Amendment, and cannot be permitted. It must therefore be reported to the Department's Offshore Environmental Inspectorate using the PON1 Notification Form. Any continuation of such a release would have to be reported by up-dating the PON1 Notification Form at intervals specified by the Department's Offshore Environmental Inspectorate.

15.11 If there is an unexplained increase in the rate of use and/or discharge and the permitted quantities are likely to be exceeded, the permit holder must submit a Regulatory Non-Compliance notification to the Department's Offshore Environmental Inspectorate pending confirmation of the cause of the increase. The permit holder should not request any variation of the chemical permit until the cause has been identified and submission of an application for a variation of the chemical permit has been agreed with the Department's Offshore Environmental Inspectorate.

15.12 If there is an unexplained increase, the Department's Offshore Environmental Inspectorate will wish to establish whether the additional use and/or discharge relates to a change in the normal operating procedure that has not been previously considered, for example if a dosing meter has recently been adjusted or replaced; whether it is a consequence of natural wear of a component in the system, for example if there has been an increase in the discharge associated with the actuation of a meter or a valve; or whether there has been an unintentional or unplanned release. Pending the outcome of their investigation, the permit holder must continue to report the additional use and/or discharge as an update to the Regulatory Non-Compliance notification at intervals specified by the Department's Offshore Environmental Inspectorate.

15.13 If it is established that an unexplained increase results from a change in the normal operating procedure, and the Department's Offshore Environmental Inspectorate is satisfied that the change is acceptable, they will advise that a variation of the chemical permit can be requested to cover future increases in the chemical use and/or discharge. The permit holder must continue to report the additional use and/or discharge as an update to the Regulatory Non-Compliance notification until the variation of the chemical permit has been approved.

15.14 If the act of making an emission is intentional it will be a discharge, even if a greater volume of chemicals is emitted than was expected. Consequently, if it is established that the increase is a consequence of the natural wear of a component in the system, for example if there has been an increase in the volume of chemical needed to actuate a valve, the emission would still be considered as intentional, even though a greater volume of chemical is emitted than expected, as the emission would be required to operate the valve. The increase in the associated emissions would therefore still constitute a discharge, although it could be outwith the manufacturer's specification.

15.15 Where the increase is a consequence of the natural wear of a component in the system, the Department's Offshore Environmental Inspectorate will advise whether any future increase in the use and/discharge can be permitted; whether it should continue to be reported as an update to the Regulatory Non-Compliance notification; or whether the use and/or discharge should be suspended pending repair or replacement of the component. The Department's Offshore Environmental Inspectorate may decide that the increase is within the acceptable limits of the intended design and can therefore be permitted; that the increase is acceptable in the short-term and should be permitted for a specified period pending repair or replacement of the component; that the increase should not be permitted but should continue to be reported as an update to the Regulatory Non-Compliance notification pending repair or replacement of the component; or that the increase should not be permitted and the permit holder should immediately effect the repair or replacement of the component. Irrespective of their decision, a permit cannot be issued in respect of any emissions that have already taken place.

#### **Leak detection and sealant chemicals**

15.16 Although an unexplained increase in the rate of use and/or discharge cannot be permitted and must be reported using the Regulatory Non-Compliance Notification Form, the Department will usually be willing to grant a chemical permit for the use, and any consequent discharge, of a leak detection chemical or chemicals, i.e. a tracer chemical or dye, to establish the cause of the increase. Under such circumstances, the leak detection chemical will be used in accordance with normal operating practice in order to identify the release path, and the discharge of the leak detection chemical will be an intended consequence of that use.

15.17 Similarly, the Department will usually be willing to grant a permit for the use and/or discharge of leak detection chemicals to identify the extent of an already confirmed leak that is being reported using a PON1

Notification Form, e.g. where there is a continuous loss of a chemical from a closed system, or a continuous loss from a system that should only result in a “batch discharge” during actuation of specific equipment.

15.18 Applications to use and potentially discharge leak detection chemicals must specify the duration of the proposed leak detection operations, the quantity of the leak detection chemical or chemicals that will be used and potentially discharged and, if the leak detection chemical or chemicals are being added to the normal contents of the equipment, the quantity of those contents that would be released to the sea during the course of the leak detection operations.

15.19 The quantity of the normal contents that would be released to the sea during the course of the leak detection operations can be risk assessed, but should not be added to the chemical use and/or discharge tables included in the application as the additional use and/or discharge of the normal contents cannot be permitted, and any emission of those contents during the course of the leak detection operations must continued to be reported by up-dating the current Regulatory Non-Compliance notification (for unexplained increases) or PON1 notification (for confirmed leaks).

15.20 Once a leak path has been established, this should be confirmed in the ‘Source of Pollution’ section in the PON1 Notification Form, either when the Regulatory Non-Compliance notification information is transferred to a PON1 or when submitting the next up-date to a current PON1, to advise the Department and other relevant bodies that the leak detection operations have been successful. The Department’s Offshore Environmental Inspectorate should additionally be contacted by e-mail ([offshore.inspectorate@decc.gsi.gov.uk](mailto:offshore.inspectorate@decc.gsi.gov.uk)) to confirm the action proposed to deal with the release.

15.21 The Department will also usually be willing to grant a chemical permit for the use and any consequent discharge of a leak sealant chemical or chemicals, e.g. a platelet chemical that gradually seals a leak, as the sealant chemical will be used in accordance with normal operating practice in order to gradually seal the leak, and the discharge of any leak sealant chemical will be an intended consequence of that use.

15.22 Applications to use and potentially discharge leak sealant chemicals must specify the duration of the proposed leak sealant operations, the quantity of leak sealant chemical or chemicals that will be used and potentially discharged and, if the leak sealant chemical or chemicals are being added to the normal contents of the equipment, the quantity of those contents that would be released to the sea during the course of the leak sealant operations.

15.23 The quantity of the normal contents that would be released to the sea during the course of the leak sealant operations can be risk assessed, but should not be added to the chemical use and/or discharge tables included in the application as the additional use and/or discharge of the normal contents cannot be permitted, and any emission of those contents during the course of the leak sealant operations must continued to be reported by up-dating the current PON1 Notification Form.

15.24 Planned discharges from any source other than the site of a leak during the course of any work being carried out to remedy a leak, e.g. discharges from valves not affected by the leak or discharges during the disconnection of pipelines, can be permitted, but losses of the normal contents via the site of the leak must continue to be reported by updating the original PON1 Notification Form until the leak is remedied.

15.25 It should be noted that, in line with the Department’s current Enforcement Policy, and irrespective of whether any increase in the use of a chemical is related to a confirmed discharge or release, the Department’s Offshore Environmental Inspectorate will determine the appropriate timescale for any necessary repair or replacement of any faulty equipment, and may use the powers available under the Amendment to enforce the repair or replacement, or to insist upon immediate shut-down of the faulty equipment to facilitate the necessary repair or replacement.

### **Leakage of chemicals during equipment testing**

15.26 The installation, repair or replacement of equipment can involve filling the system with a mixture of chemicals to protect the equipment until the works are completed and the system is commissioned, and the mixture may include a leak detection chemical or chemicals. The system is then pressurised to identify any leak.

15.27 The principles that apply in the case of a loss of integrity that results in an unintentional or unplanned leak of a chemical would also apply in the case of the testing of equipment to identify any potential leak. The leak detection chemical or chemicals are the only components in the chemical mixture that have been used for the purpose of identifying a leak path, and any emission of the leak detection chemical or chemicals can therefore be permitted

15.28 If a leak is identified, the emission of any other chemicals in the mixture must be reported using the PON1 Notification Form, and the location and extent of the leak should be confirmed in the 'Source of Pollution' section in the PON1. The actions being taken to deal with the leak should be detailed in the 'Steps taken to prevent re-occurrence / respond to spill' section of the PON1, unless otherwise directed by the Department's Offshore Environmental Inspectorate.

**Contraventions that could not reasonably be prevented or for the purpose of securing the safety of any person**

15.29 In the event of an incident involving the release of any chemical, or a discharge that is not in accordance with the terms of, or conditions attached to, the permit, if the release or discharge could not have reasonably been prevented or was undertaken for the purpose of securing the safety of any person, a defence may be available to any criminal proceedings. Nevertheless, the permit holder must notify the Department's Offshore Environmental Inspectorate immediately by telephone or e-mail, and the initial notification must be followed-up by the submission of a PON1 within six (6) hours of the release or discharge.

15.30 If a person is charged with committing an offence, the defence that the contravention arose as a result of something that could not reasonably have been prevented, or was done as a matter of urgency for the purposes of securing the safety of any person, cannot be used if the action taken was not a reasonable step to take in the circumstances, or if it was reasonable but the necessity of taking the action was the fault of the person (including circumstances relating to their negligence). For example, if two chemicals are mistakenly mixed together because they have been negligently unloaded or mislabelled, and there was an ensuing chemical reaction necessitating immediate discharge to the sea, then the person or company whose negligence caused the incident could not rely on the defence.

## **APPEALS**

**16.1** Any permit applicant, permit holder or operator who is aggrieved by a decision under the Regulations, may appeal to the court. Any such appeal must be made within 28 days of written notification of the decision that is being appealed.

## **OFFSHORE CHEMICAL NOTIFICATION SCHEME**

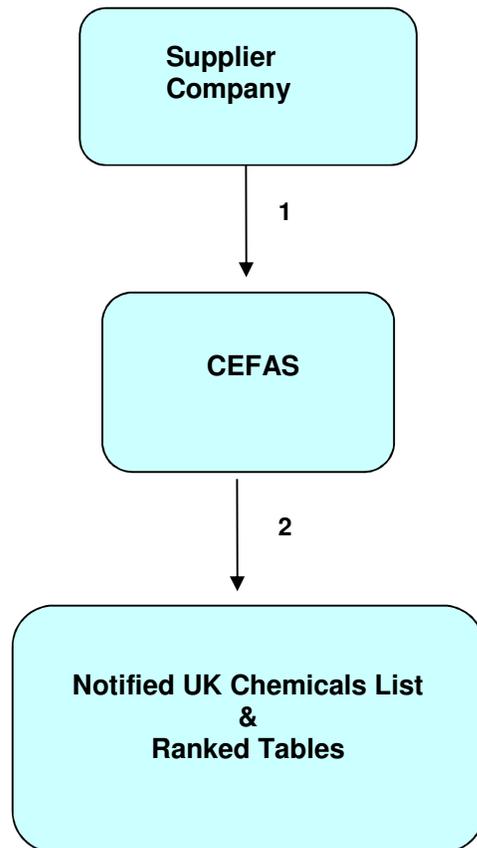
17.1 Any offshore chemical that is to be used in connection with offshore petroleum activities in the relevant area, or in connection with offshore storage or unloading operations in the reserved area, must be registered with this scheme. The Offshore Chemical Notification Scheme (OCNS) is regulated by the Department using scientific and environmental advice provided by CEFAS and MS.

17.2 The OCNS incorporates the requirements of OSPAR Decision 2000/2 on a Harmonised Mandatory Control System for the Use and Discharge of Offshore Chemicals (as amended by OSPAR Decision 2005/1) and the supporting OSPAR Recommendations, and ranks chemical products according to Hazard Quotient (HQ), calculated using the CHARM (Chemical Hazard and Risk Management) model. For non-CHARMable chemicals the UK separately ranks chemical products on the basis of toxicity test data .

17.3 Further information can be obtained on the background and detail of the scheme, including the updated Ranked Product Listing and the documents required for chemical certification, at:

<http://www.cefass.co.uk/industry-information/offshore-chemical-notification-scheme.aspx>

### **Chemicals Registration Process**



1) HOCNF registration of chemicals via CEFAS  
2) CEFAS generated lists.

## Field trials (temporary registration)

17.4 Field trial use of products not previously registered under the OCNS, or of novel blends of existing registered products, may be allowed following consultation with the Department and CEFAS.

17.5 In assessing such applications, CEFAS will require the submission of Sections 1 and 3 of the Harmonised Offshore Chemical Notification Format (HOCNF) pro-forma, and will have regard to the environmental significance of any discharges that may result from the proposed use. Trials will usually relate to a specific site and be of limited duration. However, in certain circumstances permission to use novel products over a range of operating conditions may be allowed, if environmental impacts are judged to be limited to acceptable levels. The Department will advise on the scale and scope of the required risk assessments on a case-by-case basis.

17.6 As an absolute minimum, in Section 2 of the HOCNF pro-forma, CEFAS will require toxicity data from **at least** one appropriate toxicity test, plus a detailed description of the use and fate of the product. If this is not provided, the trial product cannot be assigned to a temporary OCNS Group.

17.7 In cases where the Department considers it likely that there will be a significant discharge, the results of any **two** appropriate toxicity tests should be provided (including a sediment re-worker test where this is relevant).

17.8 Biodegradation and bioaccumulation data requirements for field trial products should be discussed with CEFAS prior to submission of the HOCNF pro-forma.

17.9 Following successful trials, full registration of the product for general use will require the submission of a complete HOCNF pro-forma data set.

17.10 It should be noted that both temporary and full registration procedures could take up to eight weeks. If the permit holder feels that there are overriding technical, health, safety or environmental reasons for expediting the approval process, they should discuss them with the Department and the relevant chemical advisors. Note that the request for fast-track approval must come from the permit holder and not the chemical supplier. If it is agreed that there would be benefit in expediting the approval process, the Department will ask CEFAS to give priority to the request for chemical approval.

## Re-brands

17.11 CEFAS, with the agreement of the Department, will accept re-brands of existing products, to enable companies to supply the products of other companies for use offshore either under the original name of the chemical or under a trade-name of their own.

17.12 To notify a proposed re-brand of a product, the company requesting the re-brand must submit fully completed Parts 1 and 3 of the HOCNF pro-forma.

17.13 CEFAS must additionally already hold a complete HOCNF pro-forma data set for the "source" product, which may be either:

- a product already registered and included in the lists of notified chemicals, in which case a letter of access is required from the company that owns the appropriate compositional and ecotoxicological data (which in rare cases may be jointly owned); or
- a new data set submitted to CEFAS by the owners of the data along with their written permission for CEFAS to use that data on behalf of the re-branding company.

17.14 A declaration that the formulation has not been altered from that of the original product will also be required.

17.15 In cases of multiple re-brands, CEFAS needs to be in possession of a suitable paper trail of permissions from the owner of the data to **all** end-suppliers, as it will not use the compositional or ecotoxicological data that it holds to accept proposed re-brands unless the owners of the data have given their written consent.

## Warning labels

17.16 Chemical suppliers and persons using or intending to use and/or discharge offshore chemicals should be aware that the significance of warning labels will vary considerably according to:

- the property that is flagged;
- the concentration of the substance of concern (which may be as low as sub-parts per million); and
- whether or not the substance will be present in any discharge.

17.17 Products containing **any** percentage of materials described in Appendix 2 of the OSPAR Convention 1992, and compounds which are known to be endocrine disrupters, will be flagged with appropriate warnings in the lists of notified chemicals.

### ***Heavy Metals and Persistent Organic Compounds***

17.18 Permit applications must provide a satisfactory justification for the use and/or discharge of any products containing significant quantities of heavy metals or persistent organic compounds. The discharge of any of these substances, which are included in the OSPAR List of Chemicals for Priority Action, was scheduled to be phased out by 1 January 2010.

### ***Endocrine Disrupters***

**17.19 Following a voluntary agreement between the Department and the suppliers of offshore chemicals, requiring the phase out of products containing known endocrine disrupters, there are no longer any offshore chemicals containing alkylphenols, alkylphenol ethoxylates and bisphenol A in the lists of notified chemicals.**

17.20 In accordance with the thrust of PARCOM Recommendation 92/8, the Department has a strong presumption against the use of products containing substances known to be endocrine disrupters, and will not allow the discharge of such products. Potential uses of such products will also require a detailed and robust justification that addresses the operational necessity and environmental risk.

### ***Polyaromatic hydrocarbons***

17.21 Polyaromatic hydrocarbons (PAHs) are included in the OSPAR List of Chemicals for Priority Action and will therefore be a particular focus of attention with a view to their possible substitution. The term “polyaromatic hydrocarbon” is not clearly defined in the OSPAR list and, for the purposes of implementing these Regulations, the Department’s definition of a PAH is – **2-6 ring, parent and branched**.

### **Re-certification of registered products**

17.22 Suppliers of registered chemicals are reminded that they must be re-certified at three-yearly intervals. Suppliers should check the expiry dates of their chemicals in the lists of notified chemicals on the CEFAS website and, if they intend to continue to supply them for use, they should ensure that the re-certification documentation is submitted to CEFAS at least eight weeks before the expiry date. Suppliers should note that the renewal date will run from the end of the previous certification, so they will not be penalised for early submission.

17.23 A complete up-to-date HOCNF pro-forma must be submitted for all re-certifications, even if the formulations are unchanged from those originally submitted. If CEFAS considers that there has been a significant change in the formulation, it may request that part or all of the testing is repeated, and request submission of a new complete HOCNF pro-forma.

17.24 If OSPAR has made any changes to the required HOCNF pro-forma dataset since the chemical was last re-certified, any additional data requirements must be included in the re-certification documentation. Guidance can be obtained from CEFAS.

17.25 If the re-certification documentation is not submitted by its expiry date, the product will be removed from the lists of notified chemicals and the applicant will be unable to add the chemical to a chemical permit application. However, the permit holder will be able to use up existing stocks of the chemical, providing the permit holder has an audit trail to verify ownership of the chemical.

## Technical Approach to the Harmonised Mandatory Control System

A.1 OSPAR's Harmonised Mandatory Control System (HMCS) has several key features which are explained in the following sections. They include Testing, Pre-screening, Ranking and Making Management Decisions about the use and discharge of offshore chemicals. The concept of Hazard Assessment and Risk Management via the CHARM approach is also introduced.

A.2 The HMCS obliges Contracting Parties (CPs) to:

- Test all substances and preparations used offshore to meet the requirements of the Harmonised Offshore Chemical Notification Format (Recommendation 2008/2).
- Subject all offshore chemicals to OSPAR Recommendation 2010/4 on a Harmonised Pre-screening Scheme for Offshore Chemicals, where possible on a substance by substance basis.
- Rank chemicals according to their generic PEC:PNEC ratios using the Chemical Hazard Assessment and Risk Management (CHARM) module as the primary 'hazard assessment' tool (Decision 2000/2).
- Make management decisions based on an assessment that takes account of the above bulleted points, with the following outcomes (Decision 2000/2):
  - Permission
  - Substitution
  - Temporary Permission
  - Refusal of Permission

A.3 The UK approach to these four processes is explained more fully in the following sections.

A.4 The Secretary of State will only grant applications for permits in respect of offshore chemicals that have been assessed by CEFAS and are published on the current version of the List of Notified Chemicals. If a permit holder uses any chemical in connection with offshore activities that has not been include in an agreed permit, they will be liable to the penalties provided for in the Regulations.

### Testing

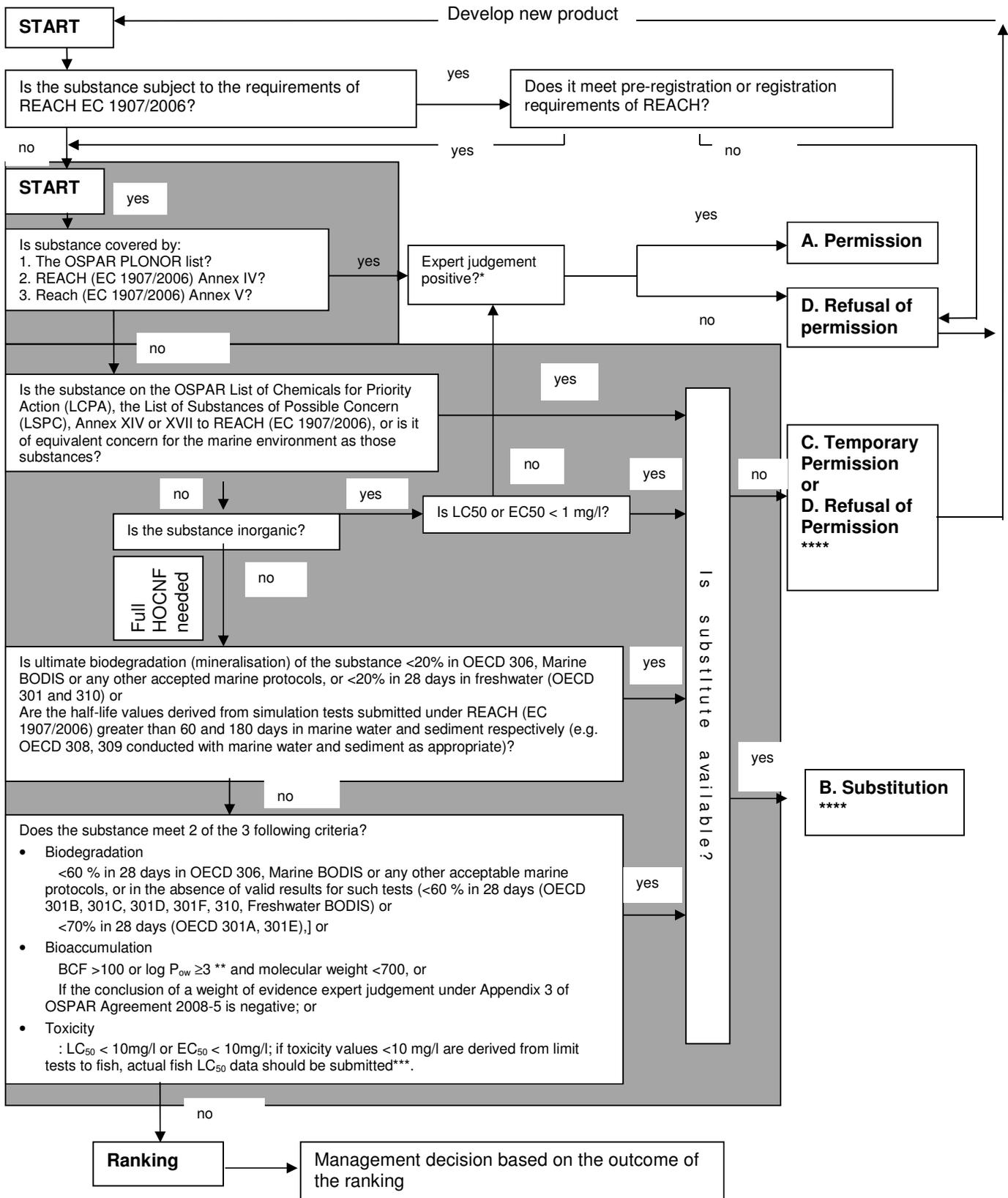
*A.5 The assessment of test data will be carried out by CEFAS on behalf of the Secretary of State. Guidance on how to complete a HOCNF pro-forma dataset is provided on the CEFAS website.*

A.6 A full HOCNF pro-forma dataset is required for most, but will not be possible for all, substances and preparations to facilitate assessment under the pre-screening scheme. A primary purpose of the HOCNF pro-forma is to gather the data that will enable CHARM assessments of substances and preparations. These assessments will form the basis for ranking lists and for ultimate management decisions.

### Pre-screening

A.7 The various steps in the pre-screening process are outlined overleaf, and explained in more detail in subsequent sections of this guidance, taking the entries in their flow 'order'.

**The Harmonised Pre-Screening Scheme (shaded) as Part of the Whole Harmonised Mandatory Control System for Offshore Substances set out in the applicable OSPAR Decision**



## Explanatory notes:

\* In accordance with the precautionary principle, expert judgement on a PLONOR/Annex IV/Annex V substance should take into account sensitive areas, where the discharge of certain amounts of the substance may have unacceptable effects on the receiving environment, or any relevant REACH restrictions

\*\* The figure  $\geq 3$  means the result of an OECD 107 test or the highest reported  $\log P_{ow}$  from the range of values in an OECD 117 test.

\*\*\* For further guidance on fish toxicity testing, please refer to OSPAR Guidelines for Completing the HOCNF

\*\*\*\* CHARM may be used as a decision supporting tool + expert judgement

**A.8 Is the substance on the PLONOR List or covered by REACH Annex IV or Annex V?** The properties of substances on the OSPAR PLONOR List or substances covered by REACH Annex IV or Annex V are sufficiently well known that they do not require a full HOCNF pro-forma assessment. Expert judgement will nevertheless be required when considering the amounts of these substances that might be discharged, to take account of the sensitivity of the receiving environment; and, in exceptional circumstances, this could result in refusal of permission.

**A.9 Is the substance on the OSPAR List of Chemicals for Priority Action?** Preparations containing any proportion of substances that is included on the OSPAR List of Chemicals for Priority Action (or any subsequent revisions of that list) will be flagged accordingly in the published UK lists. Substances on this list and any preparations containing them will be prime candidates for substitution and the advice about their potential use should always be sought from the Department. The discharge of any substance on this list was scheduled to be phased out by 1 January 2010.

### A.10 Is the substance inorganic?

Inorganic substances are not amenable to review by CHARM and their assessment will continue to be based on the OCNS, with assignment to an OCNS Group.

A.11 The remaining boxes in the pre-screening scheme are used to further categorise substances with regard to their relative biodegradation, persistence and toxicity and their potential to accumulate.

### A.12 Is biodegradation of the substance <20% in 28 days?

This box identifies poorly degrading substances. Since the Decision has a presumption against the use of highly persistent substances, all such substances, or preparations containing such substances, will be prime candidates for substitution. The properties and composition of such substances and preparations could mean that their use is permitted or refused on a case-by-case basis. The UK approach to substitution is explained in more detail below.

**A.13 Is the substance described by two of the three following criteria in the box?** Substances that are described by two of the criteria, e.g. degradation and toxicity, are of greater environmental concern and therefore also candidates for substitution. Some may be amenable to CHARM analysis (if  $\log P_{ow} < 6$  and biodegradation >20%) and, if they are, such assessments can be used to support management decisions.

### A.14 Substitution

The UK interprets the substitution requirement in line with the aims of the Decision, i.e. with a view to using less hazardous alternatives, having regard to feasibility, environmental impact and the costs of alternatives.

A.15 CEFAS and Marine Scotland will advise the Department where the balance of any advantage lies in the use of alternatives. However, permit applicants and permit holders, and their chemical suppliers, should not rely on CEFAS or Marine Scotland to identify candidates for substitution or to advise on their replacement. They should undertake their own assessments (with guidance from the appropriate Agency), and the identification of the 'best' (least hazardous) solutions should be a normal part of their risk assessment and product formulation processes. Additional advice for companies using or intending to use offshore chemicals is set out below.

A.16 OSPAR Recommendation 2006/3 requires that Contracting Parties should have phased out the discharge of offshore chemicals that are, or which contain, substances identified as candidates for substitution as soon as practicable, and not later than 1 January 2017. Exceptions will be allowed for those chemicals where, despite considerable efforts, it can be demonstrated that replacement is not feasible due to technical or safety reasons.

A.17 Contracting Parties were required to develop a National Plan for Substitution. A paper that sets out the **UK National Plan** for the phasing out of discharges of chemicals that are, or contain, substances identified as

candidates for substitution was issued in 2008 and is appended at Annex E, and guidance can be found on the CEFAS website at:

<http://www.cefass.co.uk/industry-information/offshore-chemical-notification-scheme/substitution-warning.aspx>

**A.18 Suppliers:** When compiling the HOCNF pro-forma documentation for new substances or products, chemical supply companies will be expected to have regard to the pre-screening scheme, CHARM assessments, ranking lists and their own expert judgement, and should liaise with CEFAS to identify candidates for substitution and their possible alternatives.

A.19, On receipt of the HOCNF pro-forma, CEFAS will similarly scrutinise new substance and product submissions, identify any incompleteness, and also check for candidates for substitution. They may request additional data to aid these deliberations.

A.20. Subsequent discussions between CEFAS and the supplier will then consider the balance of evidence relating to a potential candidate for substitution, having regard to the principles of Best Available Techniques (BAT). This may ultimately result in product reformulation and, re-submission under a new product name (a new name is required to avoid any confusion). If no viable alternatives are available, and the substances or products are not so hazardous that the Agencies would recommend that permission should be refused, they will recommend to the Secretary of State that such substances or products can be granted **Temporary Permissions**, which may be time-limited.

**A.21 Permit applicants and permit holders:** Through consultation with their suppliers, companies intending to use or using offshore chemicals will need to be familiar with the hazards and risks of their proposed chemical uses and discharges. During their risk assessment, they are expected to identify candidates for substitution from their chemical portfolios. They will also wish to pay particular attention to the relationship between the HQ values derived for the standard platform conditions and the site-specific RQ values and the overall risk assessment (see also the section below on ranking). They should discuss their findings with their suppliers, and possibly with the Department and the relevant chemical advisors (CEFAS or Marine Scotland), in order to determine the balance of advantage, and particularly the environmental advantage, in favour of the use of any identified alternatives.

## Ranking

A.22. Decision 2000/2 obliges OSPAR Contracting Parties to rank chemicals according to their CHARM HQs to give an indication of their relative hazard. It indicates that generic HQs shall be used for ranking purposes only, and that the list must take account of progress on the OSPAR Strategy with regard to Hazardous Substances, and that products must be grouped in functional categories. These actions are required to meet the overall purpose of the Decision, that is, the active promotion of the shift towards the use of less hazardous substances.

A.23 The UK ranking lists band chemicals in order of their CHARM HQ ranges, and assign chemicals to groups by function and flow streams. Substances in the "Permission" and "Temporary Permission" categories are listed together.

A.24 The Department and CEFAS require HOCNF pro-forma toxicity tests on preparations (to give a measure of the joint toxicity of the components). CHARM assessments for ranking purposes therefore have to be conducted on each component substance in a preparation using the PEC generated for the component substance and the PNEC generated for the preparation.

$$HQ_{e\cos\ system} = \max\ i\ mum \left[ \frac{PEC_i}{PNEC_{preparation\ n}} \right]$$

Where *i* represents the PEC of the component substances

A.25 Once completed a series of HQs will have been generated (one for each substance). The highest of these HQs will be taken as the HQ<sub>preparation</sub>.

A.26 The processes and judgements used in the generation of the HQ values must be considered when choices are being made between different substances and products. These include the recommended dosage rate (based on the CHARM standard platforms), the toxicity of the preparation as supplied and the concentration, degradation and partitioning of the component substance with the highest HQ. As much of this information is commercially sensitive, operators will need to ask suppliers for the CEFAS 'template' to inform

their selection of chemicals. They will then wish to conduct a risk assessment of alternative chemicals, which will include calculation of RQ values using their own platform-specific parameters.

A.27 It is important to remember that the generic HQ is based on standard platform data, and that the RQ that is based on the data for the platform in question could be markedly different.

A.28 Although the relative values and therefore positions of chemicals of similar function in the ranked list are of some importance, the choice of alternative products may not be straightforward. For example, a corrosion inhibitor could be used in the well, in the blow-out preventer, in the export pipelines, in any cleaning plant, in the production facilities or in the storage facilities etc. In the ranked list, alternative products will all be listed together under the heading 'Corrosion Inhibitors'. However, the dose rates could vary considerably for these alternatives. When selecting a chemical from the list, it is therefore not just a case of comparing one corrosion inhibitor with all the others, and it may only be a subset of the corrosion inhibitors that should be compared. The HOCNF pro-forma data set does not contain this level of detail, so additional information may be needed to make these kinds of decisions.

A.29 To explain this further, a distinction needs to be made between hazard and risk.

- Hazard is a situation in which harm could occur, i.e. in this context it is the potential of a substance to cause harm.
- Risk is the scientific judgement of the probability of harm occurring, i.e. the probability (likelihood) of a hazardous substance coming into contact with and harming man, other organisms or the environment.

It must be remembered that it is possible to have a high hazard with a low risk and/or a low hazard with a high risk chemicals, all of which makes the interpretation of HQs far from straightforward.

A.30 There is, of course, no linear relationship between hazard and risk. When selecting chemicals from the ranked list, applicants for permits should therefore consider and balance the hazard, the risk, the dose, the performance (efficacy), how and where it is used, the cost, the availability, the practicality etc.

A.31 Chemical selection should **not** therefore be based on hazard alone. Although permit applicants are to be encouraged to move towards best environmental practice, and on some occasions may be able to choose to use less hazardous materials, on other occasions best practice will not necessarily include the use of those materials with the lowest HQ as the risk, efficacy, etc. also need to be taken into consideration.

A.32 The UK chemical supply industry has expressed some misgivings about presenting the CHARM HQs in ranking lists. Their main cause for concern is that small variations in the HQ values could drive companies into only using offshore chemicals with the lower values to no measurable environmental benefit. Although the use of less hazardous substances is the main driver of the HMCS, the change in impact on the marine environment resulting from the use of alternative products is likely to be insignificant unless there are order of magnitude differences in their CHARM HQs.

A.33 If taken to its extreme, a permit applicant could interpret the HMCS and ranking system to mean that they should only use the chemicals at the top of the lists (i.e. the chemicals with the lowest HQ). Thus only one biocide, corrosion inhibitor, scale inhibitor etc would be available to them, but every chemical in the list will have specific properties and uses, and the **Secretary of State therefore considers this interpretation to be incorrect.**

A.34 Another interpretation might be that only chemicals in the 'gold' banded group could be used, as these all have HQs below 1. However, on a site specific assessment, the RQs of some of the chemicals in the higher bands may also be below 1. **This interpretation should therefore also be avoided.**

A.35 The essential point in the interpretation of HQs is that the list should not be considered in isolation. **All** factors, data, etc associated with the use and/or discharge of a given chemical on a specific platform therefore needs to be considered.

**OSPAR CONVENTION FOR THE PROTECTION OF THE MARINE ENVIRONMENT OF THE NORTH-EAST ATLANTIC**  
**MEETING OF THE OFFSHORE INDUSTRY COMMITTEE**  
**CADIZ: 11 – 15 FEBRUARY 2002**

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**Common Interpretation on which Chemicals are Covered and not Covered by the Harmonised Mandatory Control System under OSPAR Decision 2000/2 (Reference number: 2002-6)**

1. OIC 2002 agreed on a common interpretation on which types of chemicals are covered by the HMCS as this is crucial for a harmonised implementation of OSPAR Decisions 2000/2, 2000/3 and Recommendations 2000/4 and 2000/5, including:

- a. the operation of the permit systems and regulations introduced by the Decisions and Recommendations,
- b. the reporting on compliance and effectiveness of the measures and on the use and discharge of offshore chemicals, and
- c. the goal setting for offshore chemicals.

2. It is the intention of OSPAR Decision 2000/2 that permits for the use and discharge of offshore chemicals apply to chemicals which are used in the actual exploration, exploitation and associated offshore processing of oil, gas and condensate within the OSPAR Convention Area.

3. The requirements therefore apply to operational chemicals (including contingency chemicals), the use of which may result in discharges to the marine environment. This includes for example:

- rig and turbine washes;
- pipe dopes;
- hydraulic fluids used to control wellheads, blowout preventers and subsea valves;
- chemicals used in the actual production and processing of hydrocarbons;
- water-based and organic phase drilling fluids;
- cementing chemicals;
- work-over chemicals;
- stimulation chemicals;
- completion chemicals;
- pipeline chemicals<sup>1</sup>;
- water injection chemicals;
- water and gas tracers;
- chemicals used in “closed systems” where periodic refill is required ;

4. For these types of chemicals a completed HOCNF is required.

5. These requirements do not apply to chemicals that might otherwise be used for similar purposes on a ship, helicopter or other offshore structure. This **exempts**, for example,

- products used solely within domestic accommodation areas;
- additives to potable water systems;
- paints and other coatings (including those supplied in aerosol cans);

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<sup>1</sup> Commissioning and hydrotesting chemicals, drag reducers etc

- fuels;
- lubricants (including those supplied in aerosol cans);
- fire-fighting foams and other chemicals in firewater systems;
- hydraulic fluids used in cranes and other machinery etc.;
- laboratory chemicals;
- chemicals in “closed systems” where periodic refill is not needed.

6. These types of chemicals are not covered by the HMCS and therefore there should be no requirement for a completed HOCNF.

**Form of Public Notice****The Offshore Chemicals Regulations 2002 (as amended)**

[*Company name*] has applied to the Secretary of State for Energy and Climate Change for a permit to use and discharge chemicals in relation to [*name of field, storage complex, unloading facility or pipeline, or well designation*] at [*location*] in accordance with the Offshore Chemicals Regulations 2002 (as amended).

In accordance with the requirements of regulation 7(1) of those Regulations, copies of the application, including the accompanying Risk Assessment, may be inspected between 10 am and 4 pm on business days at [*address of applicant*] until the close of business on [*date*].

Copies of the application may also be obtained from [*address/telephone number/e-mail address of the applicant*] subject to a payment of [*amount*] by postal order or cheque made payable [*applicant's name*].

Members of the public who avail themselves of these arrangements have until [*same closing date as specified for inspection of application*] to make representations in relation to the application to the Secretary State for Energy and Climate Change in the form of a letter marked with the reference [*insert reference*] and addressed to

The Secretary of State for Energy and Climate Change  
FAO [*named official*]  
Environmental Management Team  
Energy Development Unit  
Department of Energy and Climate Change  
4<sup>th</sup> Floor, Atholl House  
86-88 Guild Street  
Aberdeen AB11 6AR

Alternatively, letters can be e-mailed to the Environmental Management Team at: [emt@decc.gsi.gov.uk](mailto:emt@decc.gsi.gov.uk)

*The Department will supply applicants with a unique reference to use and the name of the relevant official to whom representations should be sent. Applicants should also note that a maximum fee of £10 can be charged for copies of the application.*

**OSPAR CONVENTION FOR THE PROTECTION OF THE MARINE ENVIRONMENT OF THE NORTH-EAST ATLANTIC**  
**MEETING OF THE OFFSHORE INDUSTRY COMMITTEE (OIC)**  
**PARIS: 12 - 16 MARCH 2007**

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**OSPAR Recommendation 2006/3 on Environmental Goals for the Discharge by the Offshore Industry of Chemicals that Are, or Which Contain Substances Identified as Candidates for Substitution**

**Development of the UK National Plan for the Phase Out of Discharges of Chemicals Identified as Candidates for Substitution**  
**Presented by the United Kingdom**

This document includes the UK National Plan for the Phase Out of Discharges of Chemicals Identified as Candidates for Substitution under the framework of OSPAR Recommendation 2006/3. OIC is invited to take it into account when discussing Product 2 in the 2006/2007 OIC Programme of Work.

**Background**

1. OSPAR Recommendation 2006/3 (the Recommendation) introduces an environmental goal for the discharge of offshore chemicals that are, or which contain substances, identified as candidates for substitution, in order to set a specific time-frame for moving towards the cessation of these discharges from offshore installations. The Recommendation applies to Contracting Parties that have offshore installations under their jurisdiction in their internal waters or territorial seas, or on their continental shelves.

2. The Recommendation came into effect on 30 June 2006, and requires that:

a. As soon as practicable and not later than 1 January 2017, Contracting Parties should have phased out the discharge of offshore chemicals that are, or which contain substances, identified as candidates for substitution, except for those chemicals where, despite considerable efforts, it can be demonstrated that this is not feasible due to technical or safety reasons. Demonstration of those reasons should include a description of the efforts.

b. Contracting Parties should develop and present to OIC 2007 National Plans for the phasing out of chemicals that are, or which contain substances, identified as candidates for substitution.

c. Contracting Parties should exchange information on successes and failures in reaching the goal of the Recommendation, and on the practicability, efficacy, cost and environmental impact of proposed alternatives.

3. This paper sets out the United Kingdom (UK) National Plan for the phasing out of discharges of chemicals that are, or which contain substances, identified as candidates for substitution.

**Consideration of Phase-out Strategies**

4. The UK considered a number of phase-out strategies discussed at OIC 2005 during the drafting of the Recommendation:

4.1 Tonnage Discharge Reductions: It is not considered appropriate to base the phase-out strategy on arbitrary reductions in the total quantity of candidates for substitution discharged, as chemical use and discharge is directly related to the level of offshore activity. Factors that could result in increases in the total chemical use and discharge are the level of drilling activity; the number of offshore developments (installations and sub-sea completions); the level of hydrocarbon production; and, most importantly for the UK, the level of produced water production. Tonnage discharge reduction targets would also ignore the risk assessment process.

4.2 Percentage Discharge Reductions: It is not considered appropriate to base the phase-out strategy on arbitrary percentage reductions in the total quantity of candidates for substitution discharged, as percentage reduction targets would ignore the risk assessment process.

4.3 Normalized Discharge Reductions: It is not considered appropriate to base the phase-out strategy on arbitrary reductions in the total quantity of candidates for substitution discharged, normalized against the total quantity of chemicals discharged, as normalized discharge reduction targets would also ignore the risk assessment process. It would also probably be necessary to develop a method of normalization for individual categories of chemical use, e.g. production chemicals, drilling chemicals, cementing chemical completion

chemicals etc, or individual chemical types, e.g. biocides, dyes, wax solvers, scale solvers etc, and a strategy based on normalized discharge reductions would therefore become very complex.

4.4 The strategies outlined in §4.1-4.3 inclusive would additionally require the establishment of some sort of baseline, or baselines, to quantify the discharge reductions. This would pose significant difficulties, because the UK National List of Candidates for Substitution has been subject to a number of reviews as Contracting Parties have agreed measures to harmonise the screening process, and as a result of chemical manufacturers and suppliers submitting additional data in support of the UK offshore chemicals certification process. The National List has therefore changed significantly since the introduction of the Harmonised Mandatory Control System (HMCS), and continues to change as chemical manufacturers and suppliers are now required to provide substance level data, and many manufacturers and suppliers are commissioning new tests to provide improved test data. Notwithstanding these difficulties, there would also be an expectation that any quantified discharge reduction target would take account of the candidates for substitution that have already been replaced since the introduction of the Harmonised Mandatory Control System.

4.5 **Prioritised Discharge Reductions:** It is considered appropriate to adopt a strategy that would secure a reduction in the discharges of candidates for substitution that are still used on the UK Continental Shelf (UKCS), and that the strategy should identify clear priorities. Three methods of prioritisation were considered:

a. **Prioritisation based on the categories of chemicals:** Consideration was given to assigning priority to specific categories of chemical use or specific types of chemicals. It was noted that many chemicals, such as biocides and surfactants, can be used, and are used, in a variety of applications, and it would be illogical to develop a National Plan that phased out discharges for one application but continued to permit discharges for another application. It was also noted that assigning priority to a specific chemical types could create significant problems if research confirmed that was not feasible to eliminate the discharges for technical or safety reasons. It was further noted that prioritisation based on chemical categories would not take full account of the risk assessment process, although targeting particular chemical types such as biocides would contain an element of risk assessment.

b. **Prioritisation based on the perceived difficulty of phase-out:** Industry has determined that, in some cases, there are already certified alternative chemistries available, and replacement of candidates for substitution should be fairly straightforward and involve very limited trials. There are also examples where the use of a particular candidate for substitution could be discontinued, with very limited impact, or where the discharges of a particular candidate for substitution could be terminated and the waste streams injected offshore or brought ashore for disposal. Industry would therefore prefer to concentrate initially of these candidates for substitution; before moving on to the candidates for substitution that would require more extensive offshore trials; and then finally moving on to the candidates for substitution that will probably require extensive research and development in combination with offshore trials. It was noted that prioritisation based on the perceived difficulty would not take account of the risk assessment process, and that there would also be a danger that leaving the most difficult chemicals until last would result in failure to complete the necessary research, development and trials before the phase out deadline.

c. **Prioritisation based on the ecotoxicological properties of the chemicals:** Chemicals are designated as candidates for substitution on the basis of their persistence, their potential to bio-accumulate or their toxicity, or on the basis of a combination of those properties. It is therefore possible to develop a prioritisation system based on specific “trigger” values for the ecotoxicological properties that form the basis of the hazard and risk assessment, to ensure that priority is given to eliminating the discharges of candidates for substitution that are of greatest environmental concern. Such a system would not require the establishment of baselines, and would not be restricted to specific categories of chemical use or specific types of chemicals.

4.6 **Discharge Reductions versus Chemical Replacement:** Although the Recommendation only requires Contracting Parties to phase out the discharge of offshore chemicals that are, or which contain substances, identified as candidates for substitution, it is considered appropriate, wherever possible, to adopt a strategy that encourages the replacement of all chemicals that are of environmental concern, to eliminate the possibility of unplanned discharges. This would also ensure that waste streams containing candidates for substitution would not be discharged to the marine environment in the case of an emergency, for example when offshore injection facilities were not available, or routinely disposed of via an alternative route that could result in an undesirable impact in the receiving environment.

### **The UK National Plan**

5. Having considered the potential strategies outline on §4.1-4.6 inclusive, the UK has decided to base its National Plan on three linked elements, prioritisation based on the perceived difficulty of phase-out; prioritisation based on the ecotoxicological properties of the chemicals; and, wherever possible, securing the replacement of candidates for substitution in preference to eliminating operational discharges to the marine

environment. The UK has also decided that the National Plan should incorporate a fourth element, requiring industry to justify the continued discharge of candidates for substitution, prior to proposed interim phase-out targets or deadlines, to confirm the efforts made to phase out the use and/or discharge of the chemical, and to demonstrate that phase out is not currently considered to be feasible for technical or safety reasons.

5.1 Prioritisation based on the perceived difficulty of phase-out: The UK will continue to encourage this approach, but would intend to superimpose a second level of prioritisation to introduce a link to the risk assessment process.

5.2 Prioritisation based on the ecotoxicological properties of the chemicals: The prioritisation will involve all candidates for substitution being assigned a priority level, based on the chemical's persistence, its potential to bio-accumulate or its toxicity, or based on a combination of those properties.

5.3 Chemical replacement: Wherever possible, candidates for substitution should be replaced, in preference to eliminating discharges to the marine environment. Where replacement is not currently feasible, the alternative of eliminating discharges should not result in an undesirable environmental impact.

5.4 Justification of continued use and/or discharges: Where replacement and/or eliminating discharges to the marine environment are not currently feasible, offshore operators or their chemical suppliers will be required to confirm the efforts made to phase out the use and/or discharge of the candidate for substitution; confirm the nature and timing of planned research and development studies or trials to supplement those efforts; confirm whether any measures have been taken to reduce the use and/or discharge of the candidate for substitution; and confirm the technical and/or safety issues that make it necessary to continue to use and/or discharge the candidate for substitution. The justification will have to be reviewed and up-dated annually.

## Summary

6. The essential elements of §5.2-5.4 inclusive, and the proposed interim targets, are summarised in the following table:

Priority Level	Ecotoxicological Properties	Interim Target
<b>Level 1</b> (Highest Priority)	a. Highly persistent, bio-accumulating and toxic	Chemicals to be replaced; or discharges to the marine environment eliminated, or continued use and/or discharge to be formally justified by 2010
<b>Level 2</b>	a. Moderately persistent, bio-accumulating and toxic; or b. Highly Persistent and bio-accumulating; or c. Highly persistent and toxic	Chemicals to be replaced, or discharges to the marine environment eliminated, or continued use and/or discharge to be formally justified by 2012
<b>Level 3</b>	a. Moderately persistent and bio-accumulating; or b. Moderately persistent and toxic; or c. Bio-accumulating and toxic	Chemicals to be replaced, or discharges to the marine environment eliminated, or continued use and/or discharge to be formally justified by 2014
<b>Level 4</b> (Lowest Priority)	a. Highly Persistent; or b. Highly Toxic	Chemicals to be replaced, or discharges to the marine environment eliminated, or continued use and/or discharge to be formally justified by 2016
<b>Key</b>		
Highly persistent	Biodegradation <20%	
Moderately persistent	Biodegradation >20% but <60%	
Bio-accumulating	LogP <sub>ow</sub> >3 and/or molecular weight indicative of potential bioaccumulation	
Highly Toxic	Lowest LC50/EC50 <1mg/l	
Toxic	Lowest LC50/EC50 <10mg/l	

## Implementation of the UK National Plan

7. The UK maintains a database containing details of all the chemicals certified for use and/or discharge on the UKCS. The information is derived from HOCNF forms submitted in support of the application for certification, and the relevant data required to undertake the risk assessment that forms part of the UK chemical permitting process are supplied to offshore operators in the form of a chemical "template". The template also confirms whether the chemical is, or contains a substance or substances, identified as a candidate for

substitution. The UK intends to amend the templates to additionally confirm the priority level of the candidate for substitution.

8. The UK is currently undertaking a major review of all UK chemical permits relating to offshore oil and gas production. As part of that review, offshore operators are required to supply data relating to the use and/or discharge of chemicals that are, or contain substances, identified as a candidate for substitution; and to supply information relating to the outcome of efforts made to phase out the use and/or discharge of those chemicals, including details of any relevant research and development and trials, and details of any successful phase-out programmes. The UK intends to extend this data collection programme to all offshore oil and gas activities that require a chemical permit, e.g. drilling operations, well intervention operations and installation and pipeline commissioning and decommissioning operations; to additionally request data relating to the practicability, efficacy, cost and environmental impact of alternatives; and to require that the returns are updated annually.

9. Offshore operators are currently required to justify the use and/or discharge of candidates for substitution, each time that they submit an application for a chemical permit. The UK National Plan will require annual reporting, as outlined in §8, which will effectively duplicate many of the elements of the current justification procedure. The National Plan will also require a formal justification for continued use and/or discharge of candidates for substitution in advance of the interim target deadlines for the relevant priority level, and to review and up-date that justification annually after the relevant target deadline. The UK intends to integrate these procedures, to prevent duplication and to simplify the chemical permit application process.

10. The UK regulator (the Department of Energy and Climate Change) and its chemical advisors meet regularly with Oil & Gas UK, offshore operators, the European Oilfield Speciality Chemicals Association (EOSCA) and chemical manufacturers and suppliers, to discuss issues relating to the offshore chemical certification and permitting process. The UK intends to maintain that dialogue, and to include regular discussion of issues specifically related to the phase out of discharges of candidates for substitution, e.g. research and development to identify alternatives; efficacy and compatibility testing; environmental testing; and field trials.

#### **Exchange of information**

11. OSPAR Recommendation 2006/3 requires that Contracting Parties should exchange information on successes and failures in reaching the goal of the Recommendation, and on the practicability, efficacy, cost and environmental impact of proposed alternatives.

12. The Recommendation also requires that implementation reports should be submitted by Contracting Parties with offshore installations that continue to discharge candidates for substitution, using a standard format set out in Appendix 1 to the Recommendation. Contracting Parties are required to submit the first report to the appropriate OSPAR subsidiary body (OIC) by 31 January 2008, and subsequent reports are required every three years thereafter, unless otherwise specified by the Commission.

13. In their implementation reports, Contracting Parties are additionally required to confirm:

a. the candidates for substitution that have been substituted, and;

b. the candidates for substitution that have not been substituted, where the relevant regulatory authority is satisfied that there is currently no suitable alternative. In this case, the Contracting Parties should justify that conclusion and confirm any related measures taken to reduce the use of the chemicals and to reduce the discharges of the chemicals.

14. The integrated reporting procedures outlined in §9 will provide all the information required to facilitate the requirements of the Recommendation. The UK would intend to exchange information with Contracting Parties and submit implementation reports in accordance with those requirements, commencing in January 2008.

## Annual OSPAR Chemical Goals Report - Guidance

### Completion of Spreadsheets

There are two Annual Reporting Spreadsheets, one for production, storage and unloading (life) permits (PON15Ds), and one for term permits (PON15Fs; PON15Bs and PON15Cs).

Each spreadsheet contains two worksheets, one for Chemicals for Priority Action or Candidates for Substitution that are no longer used or have been replaced during the period of the report, and the other for chemicals that are still used and have not been removed or replaced. Both worksheets must be completed, if necessary recording a 'Nil' return.

1. Separate copies of the production, storage and unloading (life) annual reporting spreadsheet must be completed for **each** installation that is the subject of a PON15D.
2. Separate copies of the term permit spreadsheet must be completed for:
  - a. **All** operations undertaken during the relevant reporting period and covered by a PON15B;
  - b. **All** operations undertaken during the relevant reporting period and covered by a PON15C.
  - c. **All** operations undertaken during the relevant reporting period and covered by a PON15F; and
  - d. **All** operations undertaken during the relevant reporting period and covered by a PON15E.

It is not necessary to list every term permit within each category, and a chemical should only be listed once confirming the total annual estimated use and discharge for each category of operation. However, if a chemical is used for different categories of operation, it should be included in both relevant spreadsheets.

To enable the Department to build up a better picture of the use of Chemicals for Priority Action and Candidates for Substitution during each category of operation, where commissioning / decommissioning, work-over / intervention or well abandonment / suspension operations have been included in a PON15D, this should be clearly indicated in the 'Comments' column alongside the entry in the relevant PON15D reporting spreadsheet.

All use and/or discharge of Chemicals for Priority Action or Candidates for Substitution, must be included in the returns, irrespective of whether there is 'Continuous' or 'Batch' use, or whether there is any discharge to the marine environment,

Any trials that have been undertaken during the period of the report to identify alternatives (including process modifications to eliminate use or substitution with alternative chemicals) must also be included in the returns. Where trials have led to the removal or replacement of a chemical, this should be recorded in the worksheet relating to chemicals that **have** been removed or replaced; and where trials have not led to the removal or replacement of a chemical, this should be recorded in the worksheet relating to chemicals that **have not** been removed or replaced.

To simplify completion of the returns, several fields have been allocated drop-down menus. If more than one option is relevant, this should be recorded in the 'Comments' column in the return.

### Justification Requirements

Separate 'stand-alone' documents must be provided to accompany the annual return, providing a technical justification for the continued use and/or discharge of **all** Chemicals for Priority Action or Candidates for Substitution, and all applications of those chemicals.

To compensate for this requirement, the technical justifications can then be omitted from all future chemical permit applications, and replaced by a brief justification directly related to the risk assessment for the proposed use and/or discharge.

Further information in relation to this change in the justification requirements is detailed below:

## Technical Justification Report

Ideally these should:

- identify the product and, where appropriate, the chemical component that has been identified for priority action or identified as a candidate for substitution;
- detail the relevant physical, chemical and eco-toxicological properties of the product and/or component;
- explain the functions and applications of the product and/or component;
- detail the reasons why it is considered necessary to continue to use and/or discharge the product and/or component (e.g. safety, process requirements, efficacy, environmental benefits, legislative compliance benefits, cost considerations etc.); and
- provide a brief summary of any trials undertaken to reduce or eliminate use and/or discharge.

The majority, or in most cases all, of this information will have been provided in the justifications incorporated into individual chemical permit applications, and it should be a fairly simple task to retrieve and collate this information. When you have submitted a Technical Justification Report for a chemical that includes the proposed application detailed in a chemical permit application, it will no longer be necessary to replicate this information in the chemical permit application. However, it will be necessary to update the Technical Justification Report if there are any changes in the information during the period of an annual report.

Completion and submission of the spreadsheets will be an annual requirement, and a reminder will be issued every year confirming the relevant submission date and pointing out the potential requirement to up-date the Technical Justification Reports.

### **Risk-based Justifications:**

Following submission of a Technical Justification Report, this should be referenced in relevant chemical permit applications, and the justification included in the application should concentrate on the specific conditions of use and/or discharge detailed in the application.

It should therefore concentrate on factors such as:

- the total quantity of the product and/or component that will be used and/or discharged;
- the fate of the product and/or component;
- the potential impact of the product and/or component in the receiving environment;
- the supporting risk assessment (HQ v RQ if appropriate); and
- any factors that would reduce the risk (e.g. dispersion / dilution).

The risk-based justification should represent a significant reduction in the application preparation workload, e.g. zero discharge chemicals will probably only require confirmation of the fate of the chemical and that the environmental impact would be negligible.

**Useful Links****Chemical Permit Major Revision Guidance**

<https://www.og.decc.gov.uk/environment/ChemPermReview.htm>

**PON1 Guidance**

<https://www.og.decc.gov.uk/regulation/pons/index.htm>

**OCR Non-compliance notification form and guidance**

<https://www.og.decc.gov.uk/environment/ocr2002.htm>

**OPPC Non-Compliance Form and Guidance Note**

<https://www.og.decc.gov.uk/environment/opaoppcr.htm>

**OCR Frequently Asked Questions**

<https://www.og.decc.gov.uk/environment/ocr2002.htm>

**OSPAR Commission**

for the Protection of the Marine Environment  
of the North-East Atlantic

[www.ospar.org](http://www.ospar.org)



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