Draft Regulations laid before Parliament under section 2(8) of the Pollution Prevention and Control Act 1999 for approval by resolution of each House of Parliament

DRAFT STATUTORY INSTRUMENTS

2001 No.

ENVIRONMENTAL PROTECTION

The Offshore Combustion Installations (Prevention and Control of Pollution) Regulations 2001

Made - - - - 2001

Coming into force in accordance with regulation 1

Whereas the Secretary of State has consulted the persons required to be consulted by section 2(4) of the Pollution Prevention and Control Act 1999(**1**);

And whereas a draft of these Regulations has been laid before, and approved by a resolution of, each House of Parliament pursuant to sections 2(8) and 2(9) of that Act;

Now, therefore, the Secretary of State in exercise of the powers conferred on him by sections 2 and 7(9) of that Act hereby makes the following Regulations:—

Citation and commencement

1. These Regulations may be cited as the Offshore Combustion Installations (Prevention and Control of Pollution) Regulations 2001 and shall come into force on the day after the day on which they are made.

Interpretation

2. In these Regulations—

"address" in relation to electronic communication, includes any number or address used for the purposes of such communications;

"best available techniques" means, having regard to the matters set out in Schedule 1 to these Regulations, the most effective and advanced stage in the development of combustion installations and their methods of operation which can be practically applied on platforms and which allows the setting of emission limit values to reduce or, where possible, eliminate emissions into, and effects on, the environment as a whole from the operation of such installations, and for the purposes of this definition—

(**1**) 1999 c. 24.

(a) "available techniques" means those techniques which can be implemented on platforms under economically and technically viable conditions, balancing the costs of their implementation against the benefits to the environment;

(b) "best" means, in relation to techniques, the most effective in achieving a high general level of protection of the environment as a whole; and

(c) "techniques" includes both the technology used and the way in which the installation is designed, built, maintained, operated and decommissioned;

"business day" means any day except a Saturday, Sunday, Christmas Day, Good Friday or a day which is a Bank Holiday in any part of the United Kingdom under the Banking and Financial Dealings Act 1971(**2**);

"change in operation" means a change in the nature or functioning, or an extension, of a combustion installation which may have consequences for the environment;

"combustion installation" means any technical apparatus in which fuels are oxidised to use the heat thus generated and includes gas turbines and diesel and petrol-fired engines and any equipment on a platform connected to such apparatus which could have an effect on emissions from that apparatus or could otherwise give rise to pollution but does not include any apparatus the main use of which is the disposal of gas by flaring or incineration;

"EEA State" means a State which is a contracting party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993(**3**);

"electronic communication" means the same as in the Electronic Communications Act 2000(**4**);

"emission value limit" in relation to a polluting substance includes any limit expressed in terms of the emission of a mass of that substance over any given period;

"environmental statement" means an environmental statement within the meaning of regulation 2(1) of the Offshore Petroleum and Pipe-lines (Assessment of Environmental Effects) Regulations 1998(**5**) or regulation 3(1) of the Offshore Petroleum and Pipe-lines (Assessment of Environmental Effects) Regulations 1999(**6**);

"existing qualifying offshore combustion installation" means any qualifying offshore combustion installation which—

(a) was in operation on any platform before 30th October 1999; or

(b) is in, or was put into, operation before 1st November 2000 in accordance with a consent granted by the Secretary of State pursuant to any licence granted or having effect as if granted under the provisions of the Petroleum Act 1998(**7**), the application for such consent having been made before 30th October1999;

"the Gazettes" means the London, Edinburgh and Belfast Gazettes;

"medium" means the air, water or, as the case may be, land or the seabed (including its subsoil);

"notice" means notice in writing or by such means of electronic communication as the Secretary of State may decide;

"operator" means any person who operates a qualifying offshore combustion installation;

(**2**) 1971 c. 80.
(**3**) Cm 2703 and Cm 2183.
(**4**) 2000 c. 7.
(**5**) S.I. 1998/968.
(**6**) S.I. 1999/360. These latter Regulations revoke S.I. 1998/968 although S.I. 1998/968 remains in force for certain transitional cases (see regulation 2 of S.I. 1999/360).
(**7**) 1998 c. 17.

"petroleum" includes any mineral oil or relative hydrocarbon and natural gas existing in its natural condition in strata, but does not include coal or bituminous shales or other stratified deposits from which oil can be extracted by destructive distillation;

"platform" means any fixed or floating structure situated in the relevant area which—

(a) is used for the purposes of or in connection with the production of petroleum; and

(b) in the case of a floating structure, is maintained on a station during the course of production,

but does not include any structure where the principal purpose of the use of the structure is the establishment of the existence of petroleum or the appraisal of its characteristics, quality or quantity or the characteristics or extent of any reservoir in which it occurs;

"pollution" includes in particular the discharge or emission into the environment of those substances listed in Schedule 2 to these Regulations;

"prescribed date" means the date after the day on which the period of five months commencing on the day on which these Regulations come into force expires, save that where an application for a permit is made under regulation 5 before that date it means—

(a) the date on which the permit is granted whether in pursuance of the application or, on an appeal under regulation 17, of an order of the court; or

(b) where a permit is refused and the applicant appeals under regulation 17 the date on which the court upholds that refusal; or

(c) the date after the day on which the period provided for under regulation 17(6) expires,

as the case may be;

"qualifying offshore combustion installation" means any combustion installation (other than one which has been rendered inoperable by being wholly or partially dismantled) which—

(a) is permanently installed on a platform; and

(b) on its own or together with any other combustion installation installed on the same site (excluding any installation that has been rendered inoperable by complete or partial dismantling) has a rated thermal input exceeding 50 megawatts;

"relevant area" means the area (together with places above and below it) comprising—

(a) those parts of the sea adjacent to England and Wales from the low water mark to the landward baseline of the United Kingdom territorial sea;

(b) the United Kingdom territorial sea apart from those areas comprised in Scottish controlled waters; and

(c) those areas of sea in any area for the time being designated under section 1(7) of the Continental Shelf Act 1964(**8**);

"relevant environmental statement" means in relation to a qualifying offshore combustion installation, an environmental statement which contains information regarding the effects on the environment of the operation of the installation in question;

"Scottish controlled waters" means any waters which are controlled waters within the meaning of section 30A(1) of the Control of Pollution Act 1974(**9**); and

"substantial change" means a change in operation which may have significant negative effects on people or the environment.

(**8**) 1964 c. 29.
(**9**) 1974 c. 40; the provisions of section 30A(1) were inserted into the 1974 Act by section 169 of, and Schedule 23 to, the Water Act 1989 (1989 c. 15).

Requirement for permit to operate combustion installation

3.—(1) Subject to paragraph (2) below, no person shall operate a qualifying offshore combustion installation after the prescribed date otherwise than in accordance with the terms of, and conditions attached to, a permit granted in accordance with these Regulations.

(2) Paragraph (1) above shall not apply to the operation of an existing qualifying offshore combustion installation before 30th October 2007 except where that installation is the subject of a change which in the opinion of the Secretary of State is a substantial change.

Grant of permit; contents of permit; publication of grant of permit

4.—(1) Subject to paragraph (3) below, where the Secretary of State receives an application for a permit in accordance with regulation 5 below, he may grant that application provided that he—

(a) has taken into account any relevant environmental statement and any representations regarding the application made by the public or made by any EEA State affected by the operation of the combustion installation; and

(b) is satisfied that there has been substantial compliance with the requirements of regulation 7 below.

(2) Subject to paragraphs (3) and (4) below, the Secretary of State shall attach to every permit granted by him pursuant to paragraph (1) above conditions which in his opinion are framed in such a way as to ensure that—

(a) all appropriate measures are taken to prevent pollution, in particular through application of best available techniques;

(b) no significant pollution is caused;

(c) where possible the production of non-gaseous waste is avoided by—

(i) the use of clean technologies more sparing in their use of natural resources; or

(ii) the use of products designed to reduce the amount or harmfulness of waste,

and that where waste is produced, it is recovered or, where that is technically and economically impossible, it is disposed of in such a way as to avoid or reduce any impact on the environment;

(d) subject to the attainment of the objective set out in sub-paragraph (a) above, energy is used efficiently;

(e) necessary measures are taken to prevent accidents affecting the environment or where they occur to limit their consequences in relation to the environment;

(f) necessary measures are taken upon the final cessation of use of the combustion installation to avoid any pollution risk and to decommission and remove the installation;

(g) taking into account the technical characteristics of the installation concerned, its geographical location, local environmental conditions and best available techniques and having regard to the potential for the transfer of the pollution in question from one medium to another, there are controls on the emission of pollutants likely to be emitted from the combustion installation in significant quantities in the form of—

(i) emission value limits for such pollutants;

(ii) where the Secretary of State considers this to be more appropriate, equivalent parameters or technical measures; or

(iii) a combination of emission value limits and equivalent parameters and technical measures;

without in any case prescribing the use of any technique or specific technology;

(h) where necessary, appropriate requirements ensuring protection of the soil and ground water and measures concerning waste generated by the installation;

(i) there are suitable release monitoring requirements relating to the release of pollutants, specifying measurement methodology and frequency, evaluation procedure and an obligation to supply the Secretary of State with data required for checking compliance with the permit;

(j) there are appropriate provisions to minimise long-distance or transboundary pollution; and

(k) where in the opinion of the Secretary of State there is a risk to the environment from these, there are measures relating to conditions other than normal operating conditions including start-up, leaks, malfunctions, momentary stoppages and definitive cessation of operations.

(3) Paragraph (2) above shall not apply to the extent that the Secretary of State is satisfied that the matters referred to in it are adequately dealt with by or under the provisions of any other enactment.

(4) Where an application for a permit includes details of any plan designed to reduce pollution from the combustion installation in question, the Secretary of State may include derogations from any condition imposed in compliance with paragraph (2)(c) above provided that such derogations are limited to the period of six months following the grant of the permit.

(5) In addition to any conditions required to be attached to any permit by virtue of paragraph (2) above, the Secretary of State may attach to a permit such other conditions as he thinks fit.

(6) Where the Secretary of State grants a permit he shall send it to the applicant.

(7) Where the Secretary of State refuses an application for the grant of a permit he shall give notice of such refusal to the applicant.

(8) The Secretary of State shall publish in the Gazettes notice of the granting of any permit.

Contents of application for permit

5.—(1) An application for the grant of a permit under regulation 4 above shall be in writing and shall contain a description of—

(a) the installation and its activities;

(b) the materials, substances and energy used in or generated by the installation;

(c) the sources of emissions from the installation;

(d) the conditions of the site of the installation;

(e) the nature and quantities of foreseeable emissions from the installation into each medium as well as identification of significant effects of the emissions on the environment;

(f) the proposed technology and other techniques for preventing or, where this is not possible, reducing emissions from the installation;

(g) where necessary, measures for the prevention and recovery of waste generated by the installation;

(h) measures planned to deal with the matters referred to in regulation 4(2) above; and

(i) measures planned to monitor emissions into the environment.

(2) An application for a permit shall also include a non-technical summary of the details referred to in paragraph (1) above.

(3) Where any of the information referred to in paragraph (1) above is contained in a relevant environmental statement an application for a permit need not specify that information provided that it is accompanied by a copy of the environmental statement.