



Department
of Energy &
Climate Change

EMERGENCY POLLUTION CONTROL (EPC) GUIDANCE

Guidance on the Offshore Installations
(Emergency Pollution Control) Regulations
2002

July 2016

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Introduction

Version	Date	Comment
1	July 2016	Redraft following amendments to OPEP Guidance.

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1. Introduction

This document provides guidance on the provisions of The Offshore Installations (Emergency Pollution Control) Regulations 2002. It details the powers conferred to prevent and reduce pollution and the risk of pollution following an accident involving an Offshore Installation. The powers are exercisable in relation to all Offshore Installations and Pipelines located in the territorial sea adjacent to the UK or any area designated under section 1(7) of the Continental Shelf Act 1964.

These powers are exercisable by the Secretary of State and any such persons as may be authorised for this purpose by or on behalf of the Secretary of State. The Secretary of State's Representative (SOSREP) has been authorised to exercise these powers on behalf of the Secretary of State

This Guidance supersedes all previous EPC Guidance issued by the Department of Energy and Climate Change (the Department).

In addition The Merchant Shipping (Oil Pollution Preparedness, Response and Co-operation Convention) Regulations 1998 (as amended) require that all offshore oil and gas operations carried out on or in relation to an offshore installation or pipeline (including decommissioning) which may present a risk of marine pollution by oil are subject to an OPEP approved by the Secretary of State. The Guidance Notes for Preparing OPEPs as published by the Department detail the requirements regarding oil spill response training and exercises, Operations Control Unit, incident notification and National Contingency Plan interface.

2. Legislative Background

The Regulations are made under section 3 of the Pollution Prevention and Control Act 1999 and provide for powers to prevent and reduce pollution and the risk of pollution following an accident involving an offshore installation.

The Regulations implement the recommendations of Lord Donaldson's "Review of Salvage and Intervention and their Command and Control" (March 1999) in relation to oil and gas activities carried out wholly or partly on the United Kingdom Continental Shelf.

3. Offences

The Regulations introduce two offences:

- Contravention or failure to comply with any Direction given; and
- Intentional obstruction of a person acting under any Direction.

A person guilty of an offence under the Regulations shall be liable to a fine not exceeding £50,000 on summary conviction, or on indictment, to a fine.

In any subsequent proceedings the Regulations provide that it shall be a defence for the accused to prove that:

- the accused used all due diligence to ensure compliance with the Direction,; or
- the accused had reasonable cause to believe that compliance with the Direction would have involved a serious risk to human life.

4. Intervention Powers

The powers of the SOSREP to intervene and issue Directions apply to United Kingdom waters or in any designated area within the meaning of the Continental Shelf Act 1964(a) and are triggered when:

- an accident has occurred; and
- in the opinion of the SOSREP the accident may or will cause significant pollution in the United Kingdom, United Kingdom waters or in any designated area within the meaning of the Continental Shelf Act 1964(a); and
- in the opinion of the SOSREP use of the powers is urgently needed.

Directions can be issued by the SOSREP or anyone authorised to do so acting on behalf of the Secretary of State.

Directions can be wide ranging provided they are for the purpose of preventing or reducing pollution or the risk of pollution. Directions may require the person to whom they are given to take or refrain from taking any kind of action as specified in Regulation 3(3).

Directions may be given to:

- the operator of the offshore installation; or
- to the manager of the offshore installation; or
- to any servant or agent of the operator of the offshore installation.

Directions can be issued in writing or verbally with a subsequent written confirmation.

If the service of a Direction proves to be inadequate the SOSREP can take any action deemed necessary for the purpose of preventing or reducing pollution or the risk of pollution as specified in Regulation 3(4).

5. Revocation of Directions

Any direction remains in force until actioned in accordance with the direction or revoked by the SOSREP.

6. Compensation for Unreasonable Loss or Damage

The Regulations include provision for any person incurring expense or suffering damage when undertaking action in pursuance of a Direction or any other action required by the SOSREP to recover compensation from the Secretary of State where the action taken in accordance with the Direction:

- was not reasonably necessary to prevent or reduce pollution or the risk of pollution; or
- was such that the good it did or was likely to do was disproportionately less than the expense incurred or damage suffered as a result of that action.

7. Glossary

Accident	Any occurrence causing material damage or a threat of material damage to an offshore installation.
DECC	Department of Energy and Climate Change
Offshore Installation	Means ‘any structure or other thing (but not a ship) in or under – <ul style="list-style-type: none"> a) United Kingdom territorial waters, or b) any waters mentioned in section 7(9)(b) or 7(9)(c) of the PPC Act 1999, which is used for the purposes of or in connection with, the exploration, development or production of petroleum’ <i>Section 3(2), Pollution Prevention and Control Act 1999</i>
OPEP	Oil Pollution Emergency Plan: a plan approved by DECC, which describes in detail the process of responding to an oil spill incident from an offshore installation
Operator	In relation to an offshore installation means ‘any person who operates the offshore installation and includes any person who owns it at the time any powers conferred by these Regulations are exercised in relation to the offshore installation’ as stated in the Regulations.
Oil	For the purposes of ensuring a robust response to potential oil pollution operators must take account of oil which will include substances included within the following: <ul style="list-style-type: none"> i) Petroleum in any form including crude oil, fuel oil, sludge, oil refuse and refined products; ii) Liquid hydrocarbon or substitute liquid hydrocarbon, including dissolved or dispersed hydrocarbons or substitute hydrocarbons that are not normally found in the liquid phase at standard temperature and pressure, whether obtained from plants or animals, or mineral deposits or by synthesis; and iii) Hydrocarbon chemicals, and substitute hydrocarbon chemicals, controlled under the Offshore Chemicals Regulations 2002
Pollution	‘Includes pollution by oil or any other substance liable to create hazards to human health, to harm living resources and marine life, to damage amenities or to interfere with other legitimate uses of the sea, or by any other substances listed

Glossary

	in the Schedule to the Merchant Shipping (Prevention of Pollution: Substances Other than Oil) (Intervention) Order 1997' as stated in Regulation 2, Offshore Installations (Emergency Pollution Control) Regulations 2002
SOSREP	Secretary of State's Representative (Energy and Climate Change)
The Regulations	The Offshore Installations (Emergency Pollution Control) Regulations 2002
Secretary of State	Secretary of State for Energy and Climate Change

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