

OSPAR Decision 2023/02 Amending 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

RECALLING Article 2 of the Convention for the Protection of the Marine Environment of the North-East Atlantic (“OSPAR Convention”),

RECALLING Article 5 of the OSPAR Convention in which Contracting Parties agree to take jointly all possible steps to prevent and eliminate pollution from offshore sources;

RECALLING OSPAR Decision 2000/2 on a Harmonized Mandatory Control System for the Use and Reduction of the Discharge of Offshore Chemicals (as amended by OSPAR Decision 2005/1);

WISHING to update 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) to take account of experience in its implementation;

The Contracting Parties to the Convention for the Protection of the Marine Environment of the North-East Atlantic DECIDE:

1. Purpose and Scope

1.1 The purpose of this Decision is to amend and update 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).

2. Provisions

Preamble

2.1 In the Preamble of Decision 2000/2, the 3rd paragraph is replaced by the following:

“RECALLING the vision and objectives of the OSPAR North-East Atlantic Environment Strategy;”

2.2 In the Preamble of Decision 2000/2, the 4th paragraph is replaced by the following:

“RECOGNISING that all operators within Contracting Parties' jurisdiction in the maritime area should have in place environmental management systems that are in accordance with the principles of internationally recognised standards;”

Section 1 (Definitions)

2.3 In Section 1 (Definitions) of Decision 2000/2, definitions of “offshore chemicals” and “use” are amended as follows:

"**offshore chemicals**" means all chemicals intentionally used in connection with offshore exploration, production and decommissioning activities in the maritime area. Offshore chemicals comprise both substances and preparations;

"**use**" means application of any offshore chemical in connection with offshore exploration, production and decommissioning activities in the maritime area that might result in a discharge.

2.4 In Section 1 (Definitions) of Decision 2000/2, the definition of Pow is deleted.

Section 2 (Purpose and Scope)

2.5 In Section 2 (Purpose and Scope) of Decision 2000/2, paragraph 2.2 is amended as follows:

"This Decision shall be applied to any regulatory action, such as the granting of permits or approvals by authorities, concerning the use of, or the discharge of, chemicals from offshore sources. In the territory of those Contracting Parties where the use and discharge of offshore chemicals are regulated by frame permits based on internal (in-company) environmental control and where specific elements of the procedures required by the programmes and measures stipulated below are carried out by the companies themselves, the authorities shall be responsible for effective enforcement and control by a system of regular auditing, inspection or monitoring."

Section 3 (Programmes and Measures)

2.6 In Section 3 (Programmes and Measures) of Decision 2000/2, paragraph 3.2 is replaced by the following:

"In accordance with Article 2(5) of the OSPAR Convention, authorities have the right to impose more stringent requirements than those provided by this Decision when they consider that this is appropriate. Contracting Parties shall, however, adhere to harmonised OSPAR protocols for OSPAR reporting purposes."

Appendix 1

2.7 The regulations in the Appendix 1 of OSPAR Decision 2000/2 (as amended by Decision 2005/1), are superseded by the regulations at Appendix 1 of this Decision.

3. Entry into Force

3.1 This Decision enters into force on 16 January 2024.

Regulations with respect to the use and discharge of offshore chemicals

1. Any use and discharge of offshore chemicals shall be subject to regulation in accordance with the following steps I-IV.

I. Data requirements

2. Any application to an authority for the use or discharge of offshore chemicals shall include information/data-sets on all chemicals to which it relates. Where the harmonised pre-screening scheme provides that a full HOCNF is needed, such information/data sets should comply with the requirements in the HOCNF.

3. In all cases, the operator should be in a position to demonstrate to the authorities, if so required, that the operator has sufficient information from the suppliers or manufacturers of the chemicals concerned to allow the operator to properly assess those chemicals.

II. Pre-screening

4. All offshore chemicals shall be subject to a harmonised pre-screening (on a substance by substance basis, where possible) in accordance with the following pre-screening criteria:

- a. listed in the OSPAR List of Chemicals for Priority Action, as updated from time to time¹; or
- b. considered by the authority, to which the application has been made, to be of equivalent concern for the marine environment as substances covered by the previous sub-paragraph; or
- c. inorganic combined with high toxicity; or
- d. persistent; or
- e. meets two of the following three criteria:
 - (i) not readily biodegradable;
 - (ii) high bioaccumulation potential;
 - (iii) high toxicity;

as set out in more detail in the applicable OSPAR Recommendation on a Harmonised Pre-screening Scheme for Offshore Chemicals-

5. Any offshore chemical that is identified by the above pre-screening criteria shall be substituted if a less hazardous (or preferably non-hazardous) substitute is available.

6. Any offshore chemical, other than those on the PLONOR list, that is not identified by the above criteria shall be ranked.

¹ This paragraph was amended by OSPAR Decision 2005/1. The unamended text read:

“a. listed in Annex 2 of the OSPAR Strategy with regard to Hazardous Substances;”

III. Ranking

7. Ranking of the offshore chemicals according to the generic PEC/PNEC ratio gives an indication of the relative risks of these offshore chemicals. The PEC/PNEC ratio (referred to as “hazard quotient” in CHARM) shall be calculated by using CHARM (applying the standardised reference oil/gas platforms and dilution factors defined in CHARM). The CHARM “hazard assessment” module shall be used as a primary tool for ranking. Other suitable assessment methods may be used additionally for comparative evaluation of the ranking. Generic PEC/PNEC ratios shall be used for ranking purposes only, and not as the sole factor to control the use and discharge of offshore chemicals. The results of these calculations, together with the uncertainty factors identified by CHARM, shall be taken into account by authorities when establishing:

- a. a ranking list of offshore chemicals. This list shall:
 - (i) be subject to regular review and evaluation by authorities, taking into account the progress within the OSPAR Strategy with regard to Hazardous Substances;
 - (ii) be grouped in function categories according to the categorisation in the annual reporting system for the use and discharge of chemicals from offshore installations;
- b. the appropriate regulatory action in accordance with the provisions stipulated in paragraphs 3.1 to 3.4 of this Decision.

IV. Management decisions

8. The pre-screening and, where appropriate, the ranking steps outlined above will facilitate management decisions which shall lead to one or more of the outcomes outlined in subsections A-D below.

A. *Permission*

9. Authorities take regulatory action e.g., permit or approve offshore chemicals for use or discharge in connection with the application concerned without further evaluation. However, authorities may set conditions e.g. regarding the amount to be discharged, period of validity etc.

B. *Substitution*

10. Taking into account the criteria for substitution as in paragraph 4 above, authorities request the operator to apply a substitute for the offshore chemical or, if deemed necessary, request the operator to provide additional data.

11. If the operator wishes to substitute an offshore chemical for economic reasons or for reasons of performance, then the generic PEC/PNEC ratio of the substitute and the overall environmental impact associated with its use and discharge shall be lower than, or equal to, that of the original offshore chemical.

C. *Temporary permission*

12. Where no substitute for the offshore chemical concerned is currently available, authorities grant a temporary permission for a limited period (and for a maximum of three years), whilst a less hazardous (or preferably non hazardous) substitute is sought.

13. If an operator for non-environmental reasons (e.g. for reasons of safety, health, or technical performance) applies for the substitution of a chemical and if the generic PEC/PNEC ratio and the overall impact associated with its use and discharge is higher than that of the original chemical, authorities may

issue a special, temporary permission for a limited period (and for a maximum of three years) if they deem this substitution appropriate.

14. Any temporary permission may be renewed after expiry, if the operator can demonstrate to the satisfaction of the authorities that, despite considerable efforts, no alternative is yet available. Alternatively, authorities may request additional data to allow a re-assessment of the hazard or risk caused by the use and discharge of this offshore chemical.

D. Refusal of permission

15. Authorities refuse permission for those offshore chemicals which they consider to be unsuitable for use and discharge offshore.