

Source: OSPAR 00/02/01, Annex 15

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 5 of the Convention for the Protection of the Marine Environment of the North East Atlantic (“OSPAR Convention”) in which Contracting Parties agree to take jointly all possible steps to prevent and eliminate pollution from offshore sources;

RECALLING Article 4 of Annex III of the OSPAR Convention in which Contracting Parties agree that use on, or the discharge or emission from, offshore sources of substances which may reach and affect the maritime area shall be strictly subject to authorisation or regulation by the competent authorities of the Contracting Parties and that Contracting Parties shall provide for a system of monitoring and inspection;

RECALLING the OSPAR Strategy with Regard to Hazardous Substances (and the definitions used therein) according to which the Commission will develop programmes and measures to identify, prioritise, monitor and control the emissions, discharges and losses of hazardous substances which reach, or could reach, the marine environment;

RECALLING the OSPAR Strategy on Environmental Goals and Management Mechanisms for Offshore Activities which sets out the general process of establishing goals and measures for the offshore oil and gas industry;

NOTING the relevant legislation within the European Community and corresponding legislation of other Contracting Parties;

NOTING that the programmes and measures stipulated in this Decision require the adoption, regular review and up-date (when necessary) of several other programmes, measures and agreements reached within the framework of the OSPAR Commission with respect to offshore chemicals;

TAKING INTO ACCOUNT the experience gained in applying PARCOM Decision 96/3 on a Harmonized Mandatory Control System for the Use and Reduction of the Discharge of Offshore Chemicals;

and as a consequence **WISHING** to establish a new harmonised mandatory control system for the use and discharge of offshore chemicals.

THE CONTRACTING PARTIES TO THE CONVENTION FOR THE PROTECTION OF THE MARINE ENVIRONMENT OF THE NORTH EAST ATLANTIC DECIDE:

1. Definitions

1.1 For the purposes of this Decision:

- a. "**authority**" means the competent national authority of a Contracting Party to the OSPAR Convention;
- b. "**CHARM**" means the Chemical Hazard Assessment and Risk Management model developed by authorities and offshore industry within the Convention area;
- c. "**discharge**" means the operational release of offshore chemicals or their degradation and transformation products into the maritime area;
- d. "**Generic PEC/PNEC ratio**" means the generic ratio between the predicted environmental concentration (PEC) and the predicted no effect concentration (PNEC) of offshore chemicals calculated for a standardised discharge;
- e. "**hazardous substances**" means (in accordance with the OSPAR Strategy with regard to Hazardous Substances) substances which fall into one of the following categories:
 - (i) substances or groups of substances that are toxic, persistent and liable to bioaccumulate;
 - (ii) other substances or groups of substances which are assessed by the Commission as requiring a similar approach as substances referred to in (i), even if they do not meet all the criteria for toxicity, persistence and bioaccumulation, but which give rise to an equivalent level of concern.

This category will include both substances which work synergistically with other substances to generate such concern, and also substances which do not themselves justify inclusion but which degrade or transform into substances referred to in (i) or substances which require a similar approach.

The Commission will identify and assess such other substances or groups of substances using available information and internationally accepted methods and criteria;
- f. "**HOCNF**" means a Harmonised Offshore Chemical Notification Format as set out in the applicable OSPAR Recommendation;
- g. "**offshore chemicals**" means all chemicals intentionally used in connection with offshore exploration and production activities in the maritime area. Offshore chemicals comprise both substances and preparations;
- h. "**PLONOR**" means the OSPAR List of Substances/Preparations Used and Discharged Offshore, Which are Considered to Pose Little or No Risk to the Environment;
- i. "**P_{ow}**" is equivalent to K_{ow} and means the partition coefficient of a substance between N-octanol and water, measured or calculated according to the HOCNF;
- j. "**preparation**" means a mixture or solution composed of two or more substances;
- k. "**Pre-screening**", as set out in the applicable OSPAR Recommendation on a Harmonised Pre-Screening Scheme for Offshore Chemicals, is the first part of the overall regulatory process which requires information on bioaccumulation potential, biodegradation, and acute toxicity of substances and preparations and may use expert judgement;
- l. "**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 and 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;
- m. "**use**" means application of any offshore chemical in connection with offshore exploration and production activities in the maritime area that might result in a discharge.

2. Purpose and Scope

2.1 The purpose of this Decision is that by application of the management mechanisms set out in this Decision, authorities shall ensure and actively promote the continued shift towards the use of less hazardous substances (or preferably non-hazardous substances) and, as a result, the reduction of the overall environmental impact resulting from the use and discharge of offshore chemicals.

2.2 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.

3. Programmes and Measures

3.1 Authorities shall control the use and discharge of offshore chemicals in accordance with the regulations specified in Appendix 1 to this Decision. In doing so, authorities shall:

- a. in accordance with the general obligations as set out in Article 2 of the OSPAR Convention, apply:
 - (i) the precautionary principle;
 - (ii) the polluter pays principle;
 - (iii) best available techniques and best environmental practice, including, where appropriate, clean technology;
- b. apply the principle of substitution, i.e. the substitution of hazardous substances, or preparations containing hazardous substances, by less hazardous substances/preparations or preferably non-hazardous substances/preparations where such alternatives are available;¹
- c. avoid emissions, discharges and losses of new hazardous substances, or preparations containing hazardous substances, except where the use of these substances/preparations is justified by the application of the principle of substitution;
- d. encourage the development of less hazardous substances and preparations, and techniques for minimising the discharge of hazardous substances;
- e. encourage the reduction of the use and discharge of substances and preparations from offshore installations that might otherwise be harmful to the marine environment, such as substances causing taint or oxygen depletion.

3.2 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.

3.3 Authorities shall take health, safety and economic factors and technical performance into account, as appropriate, when applying this Decision.

¹ "Available" in the context of substitution must be understood in the same sense as in the definition of Best Available Techniques in the OSPAR Convention 1992 and should take into account the principles contained in the definition of Best Environmental Practice in the OSPAR Convention 1992 related to substitution of products.

3.4 Processes, methods and equipment which might lead to lowered use and discharge of chemicals or the use and discharge of less hazardous chemicals shall be taken into account when assessing substitutes.

3.5 The OSPAR Commission (or subsidiary bodies thereof) shall review on a regular basis all programmes, measures and agreements reached within the framework of the OSPAR Commission, which are necessary for the implementation of this Decision, with a view to up-dating them when necessary.

4. Entry into Force

4.1 This Decision enters into force on 16 January 2001 and shall be reviewed and, if necessary, revised in 2004. Upon entry into force, this Decision shall supersede:

- a. PARCOM Decision 96/3 on a Harmonized Mandatory Control System for the Use and Reduction of the Discharge of Offshore Chemicals;
- b. PARCOM Decision 97/1 on Substances/Preparations Used and Discharged Offshore.

5. Implementation Reports

5.1 Reports on the implementation of this Decision shall be submitted to the appropriate OSPAR subsidiary body in accordance with OSPAR's Standard Implementation and Assessment Procedure. This reporting shall commence in the intersessional period 2002/2003.

5.2 When reporting on implementation, the formats at Appendix 2 shall apply.

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 he has sufficient information from the suppliers or manufacturers of the chemicals concerned to allow him properly to 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 time²; 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 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.

² 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 of the substitute and the overall impact associated with its use and discharge is higher than that of the original chemical, authorities 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.

Implementation Report Formats

The formats for implementation reports concerning OSPAR Decision 2000/2 on a Harmonised Mandatory Control System for the Use and Reduction of the Discharge of Offshore Chemicals as set out below should be used to the extent possible.

1. Implementation Report on Compliance

Country:

Reservation applies

Is measure applicable in your country?

If not applicable, then state why not (e.g. no relevant installation or activity)

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Means of Implementation:	by legislation	by administrative action	by negotiated agreement
	yes/no*	yes/no*	yes/no*

Please provide information on:

- a. specific measures taken to give effect to this measure;
- b. any special difficulties encountered, such as practical or legal problems, in the implementation of this measure;
- c. the reasons for not having fully implemented this measure should be spelt out clearly and plans for full implementation should be reported;
- d. if appropriate, progress towards being able to lift the reservation.

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2.³

* Delete whichever is not appropriate

³ This section was deleted by OSPAR Decision 2005/1. The deleted text was a reporting format on effectiveness.