

REGULATORY POSITION STATEMENT ON THE SCOPE OF SEPA'S REGULATION OF RADIOACTIVE SUBSTANCES IN THE OFFSHORE AREA

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1. Background

The regulation of radioactive substances activities in Scotland is primarily carried out by the Scottish Environment Protection Agency (SEPA) under The Environmental Authorisations (Scotland) Regulations 2018 (EASR). These regulations are made by the Scottish Ministers under powers granted to them by The Scotland Act that defines Scotland as including the territorial sea adjacent to Scotland. The 'territorial sea' is defined¹ as being the sea adjacent to the United Kingdom with a breadth of 12 nautical miles (nm).

The extent of our regulation of radioactive substances is extended beyond the territorial sea by The Civil Jurisdiction (Offshore Activities) Order 1987 which makes provision to treat any installation and waters within 500 metres of it as if they were in the United Kingdom for the purposes of the Radioactive Substances Act 1993 (RSA). This means that we currently regulate any installation and waters within 500 metres of it under RSA beyond the territorial sea.

To apply EASR beyond territorial seas requires an amendment to existing legislation² to be made in the UK parliament and until that amendment is passed, RSA still applies beyond territorial seas.

The territorial sea and sea beyond this known as 'the Scottish area' as defined in The Civil Jurisdiction (Offshore Activities) Order 1987 are collectively known as the 'offshore area'.

The purpose of this regulatory position statement is to clarify the scope of our regulation within and beyond territorial seas. Although some of this regulation is under RSA at present, the scope will apply under EASR once it applies beyond territorial seas.

2. Regulatory position

2.1 Radioactive substances activities carried on within territorial seas

All radioactive substances activities carried on within territorial seas come under EASR and we will regulate them. Regulation 4 of EASR defines a 'radioactive substances

¹ The Territorial Sea Act 1987

² The Continental Shelf Act 1964 and The Civil Jurisdiction (Offshore Activities) Order 1987

activity' as an activity involving either or both – (a) radioactive material; (b) radioactive waste. This includes:

- a. research vessels on which a radioactive substances activity is carried on,
- b. floating production, storage and offloading vessels (FPSOs),
- c. vessels with radioactive sources used for other purposes such as mineral processing,
- d. vessels managing radioactive waste and contaminated items, and
- e. any other radioactive substances activity once the vessel comes within territorial seas.

Some activities are explicitly excluded from EASR in Schedule 8, paragraph 2 so we will *not* regulate:

- a. vessels that are only transporting radioactive substances in accordance with the relevant transport regulations, i.e. packages are not opened and are appropriately packaged, labelled and accompanied by the required transport documents. If radioactive substances are in use on a vessel as part of a processing operation etc. they are not being transported and need to be regulated as a radioactive substances activity; the vessel is not excluded from our regulation just because it is in transit, and
- b. vessels using radioactive material for propelling the vessel.

2.2 Radioactive substances activities carried on beyond territorial seas

Beyond territorial seas (i.e. waters beyond 12 nautical miles), we only regulate 'installations' and waters within 500 metres of it around the installation. This includes:

- a. an offshore platform where a platform is 'an offshore structure that is permanently fixed to the seabed'³,
- b. an FPSO when connected to subsea infrastructure,
- c. part of an abandoned offshore platform that has radioactive substances left in it. The radioactive substances could be NORM or radioactive sources e.g. used as depth markers.

³ Definition from Oil and Gas Authority glossary

We will not regulate:

- a. research vessels on which a radioactive substances activity is carried on,
- b. FPSOs travelling between stations,
- c. abandoned sub-sea structures left by an FPSO,
- d. vessels with radioactive sources used for other purposes such as mineral processing,
- e. vessels managing radioactive waste, and
- f. vessels that are only transporting radioactive substances in accordance with relevant transport legislation.

3. What is an 'installation'?

- 3.1 The Continental Shelf Act 1964 says that "installation' includes any floating structure or device maintained on a station by whatever means'. The Order adds that "installation' includes an installation in transit". The definition of 'installation' is not exhaustive as 'includes' any floating structure or device maintained on a station by any means, so is not therefore restricted to only covering such structures or devices. Neither specifically relate to the activity that the installation is involved in or define what a 'station' is; however, as the subject matter of the Continental Shelf Act is exploration and exploitation of the continental shelf we consider it reasonable to conclude that it relates to oil and gas activities only and not wider activities such as research vessels and quarry ships processing land-won aggregate.
- 3.2 The definition of 'installation' is replicated in The Petroleum Act 1998, and this Act has an additional definition of 'offshore installation' which is defined as 'any installation which is or has been maintained, or is intended to be established, for the carrying on of specific activities that include exploitation and exploration of mineral resources, storage and unloading of gas, and the conveyance of things by pipes'. The Petroleum Act also says that an installation does not include any part of a pipeline which is defined as 'a pipe or system of pipes (excluding a drain or sewer) for the conveyance of any thing, together with all apparatus, works and services associated with the operation of such a pipe or system'.

- 3.3 We have used these definitions to inform our regulatory position on what is in and out of scope of our regulation for radioactive substances activities.

4. Further information

This regulatory position statement applies only in Scotland. The terms of this regulatory position statement may be subject to review and be changed or withdrawn in light of regulatory or legislative changes, future government guidance or experience of its use.

If you need any further information on this regulatory position statement or any issues around it, please contact us at RSenquiries@sepa.org.uk.