



Department for
Business, Energy
& Industrial Strategy

BEIS OFFSHORE PETROLEUM REGULATOR FOR ENVIRONMENT AND DECOMMISSIONING

The Offshore Petroleum Production and Pipelines (Assessment of Environmental Effects) Regulations 1999 (as amended) – A Guide

March 2018
Revision 4

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Definitions and Abbreviations

AA	Appropriate Assessment
AFEN	Atlantic Frontier Environmental Network
BAT	Best Available Technique
BEIS	Department for Business, Energy and Industrial Strategy
BPEO	Best Practicable Environmental Option
CCS	Carbon Capture and Storage
CEFAS	Centre for Environment, Fisheries and Aquaculture Science
CO ₂	Carbon dioxide
DA	Devolved Authority
DCLG	Department for Communities and Local Government
DECC	Department of Energy and Climate Change
DepCon	Deposit Consent (Application)
DRA MAT	Drilling Operations Master Application Template
DST	Drill Stem Test
EEA	European Economic Area
EEMS	Environmental Emissions Monitoring System
EIA	Environmental Impact Assessment
EMS	Environmental Management System
EMT	Environmental Management Team
ES	Environmental Statement
EWT	Extended Well Test
FDP	Field Development Plan
FEPA	Food and Environment Protection Act 1985
FPSO	Floating Production Storage and Offloading (Vessel)
GUS	Gas Unloading and Storage
HRA	Habitats Regulations Assessment
IED	Industrial Emissions Directive

Km	Kilometre
LCM	Loss Circulation Material
LSE	Likely Significant Effects (Assessment)
M	Metre
m ³	Cubic metres
MAT	Master Application Template
MCAA	Marine and Coastal Access Act 2009
MCZ	Marine Conservation Zone
MDAC	Methane Derived Authigenic Carbonate
MEI	Major Environmental Incident
MER	Maximising Economic Recovery
Mm	Millimetre
MNR	Marine Nature Reserve
MoDU	Mobile Drilling Unit
MPA	Marine Protected Area
MW	Megawatt
NORM	Naturally Occurring Radioactive Material
NTS	Non-Technical Summary
OEI	Offshore Environmental Inspectorate
OGA	Oil and Gas Authority
OGED	Offshore Oil and Gas Environment and Decommissioning
OPEP	Oil Pollution Emergency Plan
OPRED	Offshore Petroleum Regulator for Environment and Decommissioning
OSD	Offshore Safety Directive
OSDR	Offshore Safety Directive Regulator
OSPAR	Oslo and Paris Convention for the Protection of the Marine Environment of the Northeast Atlantic
PETS	Portal Environmental Tracking System
PDA	Post Direction Amendment
PLA MAT	Pipeline Operations Master Application Template

PPC	(Integrated) Pollution Prevention and Control (Directive)
PRA MAT	Production Operations Master Application Template
PWA	Pipeline Works Authorisation
RFU	Rock Filter Unit
SAC	Special Area of Conservation
SAT	Subsidiary Application Template
SEA	Strategic Environmental Assessment
SNCB	Statutory Nature Conservation Body
SoS	Secretary of State (for Business, Energy and Industrial Strategy)
SPA	Special Protected Area
SSSI	Sites of Special Scientific Interest
UKCS	United Kingdom Continental Shelf
VSP	Vertical Seismic Profile
WBM	Water Based Mud
WHO	World Health Organization
WONS	Well Operations Notification System



1 Legislative Background

1.1 Environmental Impact Assessment Directive

The Environmental Impact Assessment (EIA) Directive's main aim is to provide a high level of protection of the environment and to contribute to the integration of environmental considerations into proposed projects with a view to reducing their impact on the environment. The Directive must be implemented in national legislation.

The EIA Directive first came into force in 1985 as Council Directive 85/337/EEC (the "1985 Directive") and was amended in 1997, 2003 and 2009. The 1985 Directive and its three amendments were codified by Directive 2011/92/EU ("the existing Directive") in advance of the European Commission adopting a proposal in October 2012 to further amend the existing Directive.

The Department for Business, Energy and Industrial Strategy (BEIS or "the Department"), through its Offshore Petroleum Regulator for Environment and Decommissioning (OPRED), and other Government Departments worked closely with the Department for Communities and Local Government (DCLG) (the lead Department) on the UK's input to the EU negotiations concerning the proposals to amend the Directive. Following negotiations in the European Parliament and Council, a compromise text was agreed, and Directive 2014/52/EU ("the amending Directive") entered into force on 15 May 2014.

The changes introduced by the amending Directive that are considered to be of most significance are identified below. It has not been necessary to include all of these changes in the regulatory amendments as some items are already current practice and others are not deemed relevant.

- Article 1(2)(g) Definition of EIA process;
- Article 1(3) Changes to the circumstances in which a project may be exempt from the requirements of the Directive for reasons of defence or civil emergencies;
- Article 2(3) Joint / coordinated procedures for projects that are subject to the provisions of the Habitats or Wild Birds Directive as well as the EIA Directive;
- Article 2(4) Provisions for exempting, in exceptional circumstances, specific projects from the Directive's obligations where the application of those obligations would adversely affect the purpose of projects;
- Article 2(5) Provision whereby projects adopted by specific acts of national legislation may be exempted from the Directive's public consultation requirements;
- Article 3(1) Changes to the list of factors, the effects of which are to be assessed as part of the EIA process;
- Article 3(2) Requirement to consider the expected effects deriving from the vulnerability of a project to risks of major accidents and / or disasters that are relevant to the project;
- Article 4 (plus Annexes IIA and III) Clarification of the options for screening and amendments to the information which is required and the criteria to be applied when screening projects to determine whether the Directive applies;
- Article 5(1) (plus Annex IV) Amendments to the information to be included in the EIA report (the Department continues to use the term "Environmental Statement");
- Article 5(2) Requirement for EIA reports to be 'based on' a scoping opinion, where one is issued;

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- Article 5(3) Requirement for EIA reports to be prepared by competent experts; for the competent authority to have access to sufficient expertise to examine EIA reports; and for the competent authority to seek supplementary information;
 - Article 6(1) Requirement to ensure appropriate authorities with local or regional competences (as well as those with environmental responsibilities) are given an opportunity to express opinions on information provided by project developers in an application for consent;
 - Articles 6(2), 6(5) and 6(7) Provisions for informing the public electronically, including timescales;
 - Article 7(5) Public consultation requirements for projects affecting other Member States;
 - Article 8 Provisions for decisions to take into account the results of consultations and information gathered;
 - Article 8a A new Article elaborating on information to be given in decision notices and making further provision about decision-making procedures;
 - Article 8a(4) Requirement to ensure that features of projects designed to prevent adverse environmental effects are implemented by developers and for determining the monitoring of significant adverse effects;
 - Article 8a(5) Requirement for decisions being made in a reasonable period of time;
 - Article 8a(6) Requirement that a competent authority's reasoned conclusion must be "up-to-date" when a decision is taken to grant consent;
 - Article 9(1) Requirement for decisions and additional information about decisions (including results of consultations undertaken) to be notified to the public and consultation bodies;
 - Article 9a A new Article requiring the avoidance of conflicts of interest; and
 - Article 10a A new Article concerning penalties for infringements of national provisions.

Commission reference documents, guidance documents and recent studies and reports can be found at:

<http://ec.europa.eu/environment/eia/eia-support.htm>

Commission guidance relating to streamlining environmental assessments conducted under Article 2(3) of the Environmental Impact Assessment Directive (Directive 2011/92/EU of the European Parliament and of the Council, as amended by Directive 2014/52/EU) (2016/C 273/01) can be found at:

[http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52016XC0727\(01\)&from=EN](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52016XC0727(01)&from=EN)

New Commission guidance relating to scoping, screening and the preparation of the EIA report can be found at:

<http://ec.europa.eu/environment/eia/eia-support.htm>

1.2 Environmental Impact Assessment Regulations

The existing Directive requirements were implemented in relation to offshore hydrocarbon-related projects including pipe-lines (i.e. oil and gas projects, gas unloading and storage projects and carbon dioxide storage projects) on the United Kingdom Continental Shelf

(UKCS) through the Offshore Petroleum Production and Pipe-lines (Assessment of Environmental Effects) Regulations 1999 (S.I. 1999/360) (as amended¹) (“the EIA Regulations”).

EIA is therefore well established in the legislation for offshore energy projects, and for other operations covered by the Directive requirements. It was consequently agreed across Government and the Devolved Authorities (DAs) that every regulatory authority would separately amend their respective regimes to transpose the requirements of the amending Directive. The Offshore Petroleum Production and Pipe-lines (Environmental Impact Assessment and other Miscellaneous Provisions) (Amendment) Regulations 2017 (S.I. 2017/582) transpose the requirements of the amending Directive into the EIA Regulations, and came into force on 16 May 2017. A copy of the amending regulations can be found at:

<http://www.legislation.gov.uk/ukxi/2017/582/contents/made>

Consent for the types of offshore hydrocarbon-related projects, including pipelines, detailed below is granted by the Oil and Gas Authority (OGA); but this is subject to the separate agreement of the Secretary of State (SoS), given only when the SoS is satisfied that the requirements of the EIA Regulations are met:

- (a) Projects requiring an Environmental Statement (ES):
 - (i) The extraction of petroleum and natural gas for commercial purposes where the amount extracted exceeds 500 tonnes per day in the case of petroleum and 500,000 cubic metres (m³) per day in the case of gas.
 - (ii) Pipelines with a diameter of more than 800 millimetres (mm) and a length of more than 40 kilometres (km):
 - for the transport of gas, oil, chemicals; or
 - for the transport of carbon dioxide (CO₂) streams for the purposes of geological storage, including associated booster stations.
 - (iii) Storage sites pursuant to Directive 2009/31/EC on the geological storage of CO₂.
 - (iv) Installations for the capture of CO₂ for the purpose of storage;
 - (v) Any change to or extension of projects listed in parts (i) to (iii) where such a change or extension in itself meets the specified thresholds.
- (b) Projects subject to a requirement for a determination that no ES needs to be prepared:
 - (i) Deep drilling.
 - (ii) Industrial installations for the extraction or carrying of petroleum and natural gas.
 - (iii) Underground storage of combustible gases.
 - (iv) The use of a mobile installation for the testing of a well or for the purpose of carrying out test injections of CO₂ or combustible gas

¹ Amending instruments include the Offshore Petroleum Production and Pipe-lines (Assessment of Environmental Effects) (Amendment) Regulations 2007 (S.I. 2007/933), the Pollution Prevention and Control (Fees) (Miscellaneous Amendments and Other Provisions) Regulations 2015 (Article 8) (S.I. 2015/1431) and the Energy (Transfer of Functions, Consequential Amendments and Revocation) Regulations 2016 (S.I. 2016/912).

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- (v) The extraction of petroleum and natural gas for commercial purposes where the amounts extracted are below the thresholds requiring an ES.
 - (vi) Pipelines for the transport of oil and gas or CO₂ streams for the purpose of geological storage that are below the thresholds requiring an ES.
 - (vii) Any change or extension of projects listed in parts (i) to (vi) that are already authorised, executed or in the process of being executed, which may have significant adverse effects on the environment.

In transposing the amendments to the Directive, the existing regulatory approach to EIA has been retained as far as practical as it is well understood by developers and others involved in the procedures. Any changes made to the EIA Regulations therefore represent the minimum necessary in order to bring them into line with the amended Directive.

The key changes to the EIA Regulations can be summarised as:

- A new definition of the EIA process.
- The inclusion of exemptions to the EIA Regulations where a project or part of a project has defence as its sole purpose or is being carried out in response to civil emergencies.
- The inclusion of provisions clarifying that a 'coordinated procedure' will apply where there is an obligation on the SoS to evaluate the environmental effects of a project under the EIA Directive and the Habitats or Wild Birds Directives.
- The updating of the EIA Regulations to reflect:
 - the amendments to the information / criteria to be included in an ES set out in the annexes to the amending Directive; and
 - changes to the information to be supplied to the SoS and the details / criteria to be applied by the SoS when screening certain projects to determine whether an ES is required.
- Where a scoping opinion is sought, the addition of a new obligation for the ES to be 'based on' the scoping opinion.
- The addition of new obligations regarding the use of experts by:
 - project developers for the preparation of ESs; and
 - the SoS for the evaluation of ES submissions.
- The updating of the extant public participation provisions to meet the requirements for consultation, including an increase in the public notice period to 30 days, and for information on EIA submissions and subsequent decisions to be made publicly available on a public website.
- The inclusion of provisions to make it clear that the SoS may, if deemed appropriate, require monitoring conditions to be attached to the agreement to grant the consent.
- New provisions to make it clear that decisions relating to projects for which an ES has been submitted will be made in a reasonable period of time, and introducing a maximum review period of 90 days for applications for a direction that an ES is not required.

Additional changes have also been introduced to:

- Transfer the modifications contained in Article 2 of the Energy Act 2008 (Consequential Modifications) (Offshore Environmental Protection) Order 2010 (S.I. 2010/1513) relating to gas unloading and storage and CO₂ storage into the amended EIA Regulations (and consequently revoke Article 2).

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- Correct an omission in the implementation of the Habitats Directive as it applies to offshore petroleum production (and to gas and CO₂ storage) through the Offshore Petroleum Activities (Conservation of Habitats) Regulations 2001 (S.I. 2001/1754).
 - Make minor corrections to the Offshore Petroleum Licensing (Offshore Safety Directive) Regulations 2015 (S.I. 2015/385).

1.3 Review of Regulations

The Department is required to review the EIA Regulations “from time to time” and report and publish the conclusions of the review. The first report must be published before 1 October 2021, and subsequent reports must be published at intervals not exceeding five years. The report must set out the objectives that are intended to be achieved by the EIA Regulations; assess the extent to which those objectives are achieved; assess if those objectives remain relevant; and determine the extent to which the required objectives could be achieved in a less burdensome way.

1.4 Review of Implementation

1.4.1 Commission reviews

The Department will be required to contribute to the provision of a ‘six yearly’ report to the Commission, detailing information relating to the implementation of the Directive. This will include the provision of developer’s costs relating to the EIA process, and the Department will therefore be asking developers to provide cost data towards the end of the EIA process. The Department will liaise with relevant industry contacts ahead of the first reporting deadline in 2022, to determine the best approach to obtain this information.

1.4.2 Quality reviews

In 2007 the Department of Trade and Industry (now BEIS) commissioned an independent research study to determine whether applicants and the Department were adopting a consistent and acceptable approach to the preparation and assessment of ESs that fully met the requirements of the EIA Regulations and the related EU Directives. The study, undertaken by the University of Manchester, focused on ESs submitted between 2000 and 2005, with a sample size of 35 ESs. The study concluded that 51% were of satisfactory overall quality, none were of poor quality and a few were of the highest quality. Of the 49% that were regarded as unsatisfactory overall, this was mainly due to weaker performance in just one review area. The review report can be found at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/49989/3411-quality-review-of-environmental-statement.pdf

A further independent review has been commissioned by the Department in 2017 to determine whether there has been an improvement in the overall quality of ESs, and also to determine whether applicants and the Department are adopting a consistent and acceptable approach to the preparation and assessment of ESs and Oil Pollution Emergency Plans (OPEPs). The study report will be published as soon as it is available.

2 Environmental Statement and Environmental Impact Assessment Direction Requirements

2.1 Environmental Statements

2.1.1 Relevant projects

Under the EIA Regulations an application for consent for projects for which an ES will be required includes those where:

- consent is sought for the getting of 500 tonnes or more of oil per day or 500,000 m³ or more of gas per day otherwise than as a by-product of the drilling or the testing of any well;
- consent is sought for the construction of a pipe-line for the conveyance of petroleum or for the conveyance of CO₂ for the purpose of storage, other than one which is to form an integral part of any development requiring an ES, where the pipeline will be 40 km or more in length and a diameter of 800 mm or more;
- consent is sought for any CO₂ storage projects;
- consent is sought for an installation for the capture of CO₂ for the purpose of storage; or
- any change to or extension of the projects above, where the change or extension itself meets the thresholds. See Section 2.1.2 below for further information on the revision and / or renewal of production consents.

2.1.2 Revision and/or renewal of production consents

A variation of a production consent that involves an increase in the currently consented level of production constitutes an "extension" to a project, and therefore has to be the subject of an EIA.

Requests for variations of consents that involve an increase in the production level that exceeds the ES thresholds discussed in Section 2.1.1 must be supported by a full EIA, i.e. the submission of an ES. Where a full EIA (an ES) is required to support a proposed increase in production and the submission is approved, the Department will no longer require a subsequent EIA Direction application for the increase in production providing there are no material changes to the information included in the ES. However, to allow for the correct production consent information to be reflected in the associated Production (PRA) MAT document for the field, a variation to any of the linked SATs must be raised to update the MAT EIA document. The change summary for the variation need only be a brief description of the amendments.

Requests for variations of consents that involve an increase below the thresholds discussed in Section 2.1.1 must be supported by a request for an EIA Direction for an Increase in Production to confirm that a full EIA is not required.

Requests for variations of consents that do not involve any increase in the production level, i.e. requests that relate solely to extending the duration of the consent, do not have

to be the subject of an environmental submission to seek Departmental approval, but it will be necessary to update the PRA MAT EIA submission to capture the additional years.

For further information on the process and the determination of the appropriate environmental requirements, see Appendix A (Revision and Renewal of Production Consents).

2.1.3 Environmental Statement amendments

2.1.3.1 While Environmental Statement is being considered by the SoS

If there are minor changes to proposals during the EIA process, i.e. changes not material to the determination, or there is a requirement for a minor clarification, the Department will either request further information or determine that the updated information can be included in the subsequent application for an EIA Direction. If a request for further information is in consequence of comments received from a consultee, the information or determination would be shared with the relevant consultee.

If there are changes that could be material to the SoS's reasoned opinion, it is likely that the Department will request an addendum to the original ES, or request that the original ES is amended to address the updated information. The changes would need to be clearly highlighted, including any differences in the identified impacts, and the addendum or amended ES would be subject to the formal ES requirements (i.e. public notice and consultation etc.).

Early consultation with the Department is recommended in the event of any change, to seek advice on the required procedure relating to the change.

2.1.3.2 After an Environmental Statement has been determined

If there are minor changes to proposals following determination of the ES, the applicant will be required to address the changes in the subsequent application for an EIA Direction.

If there are changes that would be material to the SoS's reasoned opinion on the original ES, the Department will always request a new ES, which will be subject to the formal ES requirements (i.e. public notice and consultation etc.).

Again early consultation with the Department is recommended in the event of any change, to seek advice on the required procedure relating to the change.

2.1.4 Validity of Environmental Statement decisions

The ES decision is not constrained by a statutory time limit. Provided the operations proceed in the timeframe discussed within the ES, there are no changes in the circumstances relevant to the determination, and the operations are to be undertaken by the company that submitted the ES, a positive decision will remain valid and any minor changes can be addressed in the subsequent application for an EIA Direction.

If there is a significant delay in the project, to the extent that it is likely that more up-to-date environmental information should be used to support the assessment, the Department is likely to request a new ES.

2.1.5 Change of developer

If a project, pipeline or development changes hands prior to completion of the EIA process, the company that submitted the ES would need to confirm in writing that the proposals had been transferred to another company and to indicate that the ES was therefore withdrawn. The company taking over the project, pipeline or development would then be required to submit a new ES, which would have to be subject to a new public notice.

If a project, pipeline or development changes hands following completion of the EIA process, the company that submitted the original ES relating to the proposals would need to confirm in writing that the project, pipeline or development had been transferred to another company, and to provide relevant contact details for the new company. The company taking over the proposals would then be required to:

- confirm that it intended to proceed with the proposals as detailed in the original ES, and that it was content to comply with the commitments detailed in the ES; or
- confirm that it wished to make minor changes to the proposals, as summarised in the letter of confirmation; or
- confirm that it wished to make significant changes to the proposals, as summarised in the letter of confirmation, which could be material to the Department's original determination.

If the company taking over the project, pipeline or development wished to change the proposals in any way, the Department would advise, in accordance with section 2.1.3 above, whether the changes could be addressed in a subsequent application for an EIA Direction or whether a new ES would be required.

If the company that submitted the original ES is taken over, i.e. the company changes hands rather than a project of development, this will not affect the original determination or any conditions attached to that determination. If the new company wished to change the proposals in any way, they should seek advice from the Department.

2.2 Environmental Impact Assessment Directions

2.2.1 Relevant projects

Projects requiring an EIA Direction that no environmental statement need be prepared will include those where:

- consent is sought for the getting of less than 500 tonnes of oil per day or less than 500,000 m³ of gas per day, or for an increase in a currently consented level of production that is below those thresholds;
- consent is sought for the deep drilling of a well or borehole for the purposes of, or in connection with the getting or storage of petroleum, or the storage of CO₂;
- consent is sought for the use of a mobile installation for the testing of a well;
- consent is sought for the use of a mobile installation for the purpose of carrying out test injections of CO₂ or combustible gas;
- consent is sought for the construction, amendment or augmentation of a pipe-line for the conveyance of petroleum, or for the conveyance of CO₂ for the purpose of storage, where the pipeline works are less than 40 km in length and the diameter of the pipeline is less than 800 mm; and

-
- a variation of consent is sought for the establishment of a surface installation for the extraction of petroleum or the storage of gas or CO₂ in relation to a development.

Deep drilling is not considered to include the drilling of a well or borehole for the purpose of obtaining geological information about the strata, or to include any drilling operation the main purpose of which is the testing of the stability of the seabed, providing the depth of the well to be drilled is 350 m or less. However, there is a separate requirement to seek consent for such shallow drilling operations under regulation 4(1) of the Offshore Petroleum Activities (Conservation of Habitats) Regulations 2001 (as amended).

2.2.2 Excluded projects

The EIA Regulations provide that an EIA submission is not required to support applications for consent relating to any of the proposals detailed below, providing the proposals are unlikely to have a significant effect on the environment:

- (a) construction or augmentation of a pipeline, including deposits of protective or support materials, where the works are located entirely within 500 metres (m) of a well or any part of a fixed installation; or
- (b) the renewal of a consent for the getting of petroleum, where there is no increase in the currently consented level of production and only the duration of the consent is increased; or
- (c) the renewal of a consent to the carrying on of a gas storage project, where there is no increase in the currently consented level of storage and only the duration of the consent is increased.

For items (a), (b) and (c) above, there is no requirement to submit an application for an EIA Direction to the Department to seek confirmation of the exclusion, as the Department will receive notification of the request for the relevant consent from the OGA. However, the Department may contact the developer if it requires additional information in relation to the proposals. For item (a), applicants are therefore encouraged to ensure that requests for the relevant consent clearly indicate that the works are located entirely within 500 m of a well or any part of a fixed installation, to avoid unnecessary requests for additional information.

Where the Department decides that a project falls within the scope of items (a), (b) or (c) above, and concludes that it is not likely to have a significant effect on the environment, the Department is required to publish its decision in the Gazettes, and details are also included in a spreadsheet published on the GOV.UK website at:

<https://www.gov.uk/guidance/oil-and-gas-environmental-data>

The practice of issuing an e-mail or letter to the developer solely to confirm an exclusion has been discontinued, and the developer will only be contacted if further information is required in relation to a proposal, including any relevant report relating to completion of the activity, or if the exclusion cannot be applied as there could be a significant effect on the environment and an application for an EIA Direction is therefore required. If the developer is not contacted directly, it can be concluded that no further information is required and the relevant exclusion will apply, and confirmation of the exclusion can be checked on the GOV.UK website via the link detailed above. Irrespective of whether the exclusion can or cannot be applied, the Department will notify the OGA of its determination.

2.2.3 Environmental Impact Assessment Direction applicability

Applications for EIA Directions that an ES need not be prepared will be considered on a case-by-case basis, and whether the applications are approved or rejected will depend on a number of factors including the nature, timing and location of the project, the environmental sensitivity of the area and, most importantly, whether it is considered likely that the proposals will have any significant adverse impact. Determination would follow the Department's review of the application and any further information received (including comments received from consultees, or representations against the proposals), and the consideration of any assessment carried out under other EU legislation. If an application is rejected because the Department has concluded that it cannot be determined that the project will not have a significant adverse effect on the environment then the applicant must submit an ES. Rejection could therefore have a significant impact on the timing of a project, and early consultation with the Department is recommended if there are any concerns about whether an application for an EIA Direction is appropriate.

In the case of applications for deep drilling in areas where there has been no previous offshore oil and gas activity, or applications relating to areas considered to be extremely sensitive, it has been normal practice for the Department to recommend that an ES should be prepared, but the amended EIA Regulations now allow the Department to direct that an ES must be prepared if it is considered possible that a project could have a significant adverse effect given the sensitive nature of the receiving environment. Where the Department directs that an ES must be prepared, it is required to publish a notice of its direction in the Gazette and on the GOV.UK website. Again, any decision to require an ES could have a significant impact on the timing of a project, and applicants should therefore contact the Department for advice if they are unsure about whether an application for an EIA Direction would be appropriate for a specific proposal.

2.2.4 Validity of Environmental Impact Assessment Directions

EIA Directions will remain valid for the period specified in the Direction, up to a maximum of two years, provided there is no amendment to the details provided in the accepted application. If, in exceptional circumstances, the operations are not completed within the validity period specified in the EIA Direction, applications to vary the Direction must be submitted to the Department prior to the expiry date to request an extension of the period of validity. If operations are likely to extend significantly beyond the two year period, developers will normally be expected to update the EIA submission to support the request for an extension of the period of validity.

2.2.5 Change of developer

If a project, pipeline or development changes hands, the change will be recorded in the UK Energy Portal as soon as the transaction is legally completed. If a transaction is completed during the review of an application for an EIA Direction, the application must be withdrawn. If a transaction is completed following determination of an application for an EIA Direction, the original company will be required to retain responsibility for all environmental approvals relating to time-limited 'term' activities, e.g. EIA Directions relating to drilling or pipeline operations, but will be requested to transfer any environmental approvals relating to open-ended 'life' activities to the operator appointed by the new company, e.g. EIA Directions relating to production operations. Although environmental approvals relating to 'term' activities cannot be transferred, the company

purchasing a project, pipeline or development may wish to request copies of relevant applications and/or supporting documents to facilitate the preparation of future similar applications.

As indicated above, if it is likely that a transaction will be completed following determination of an application for an EIA Direction relating to a 'term' activity, the original company will be expected to retain responsibility for completion of the approved project. If the companies involved wish to change this arrangement, they should contact the Department for advice in relation to available options.

The transfer of EIA Directions (and all other environmental approvals) relating to 'life' activities will ensure continuity for all ongoing operations. The operator appointed by the new company will be afforded access to the UK Energy Portal for all transactions relating to the 'life' activities, and would therefore be able to submit applications to vary the existing environmental approvals if they wanted to make any changes. The operator appointed by the new company would also be able to create new applications for 'term' activities relating to the acquired assets. If there are any problems with Portal access, the appointed operator or new company should contact the Department.

If a company holding relevant EIA Directions, or applications for EIA Directions, is taken over, i.e. the company changes hands rather than a project, pipeline or development, this will not affect any Portal transactions. As soon as the takeover is legally completed and the OGA has approved the operator appointed by the new company, the original company will be able to transfer all Portal transactions to the appointed operator. If the appointed operator wished to change the proposals in any way, they would then be able to submit updates to any outstanding applications or to submit applications to vary any existing environmental approvals.

2.3 Exempted Projects

The Department, acting on behalf of the SoS, may direct that the EIA requirements (i.e. the requirements under the EIA Regulations) do not apply to a relevant project, where the sole purpose of the project is that of national defence or a civil emergency and, in the opinion of the SoS, complying with the EIA requirements would have an adverse impact on that purpose. In the extremely unlikely event that the Department would issue such a direction, a copy must also be sent to the OGA.

The Department, acting on behalf of the SoS, may also direct that in exceptional cases a relevant project is exempt in whole or in part from the EIA requirements if circumstances are such that the application of some or all of the provisions would adversely affect the project. Such a direction can disapply some or all of the provisions of the EIA Regulations and must detail the form of assessment that the Department has concluded is required to ensure a high level of protection of the environment and of human health. Should the Department conclude that the project is likely to have a significant environmental effect on the environment in another European Economic Area (EEA) State, a direction can only be issued if appropriate consultation has been undertaken involving that State. The direction must specify the extent to which the EIA Regulations apply or if they are not to apply at all.

The information relating to the main environmental effects of the project, the reasons for giving the direction and the information upon which that decision is based must be made available to the public. Details of the direction and information as to how the public concerned may obtain a copy of the direction must therefore be published in the Gazette,

and an electronic version will be also be made available on the GOV.UK website. The Commission of the European Union must also be informed of the reasons justifying the exemption and be provided with the information to be made available to the public.

Again, in the extremely unlikely event that the Department would issue such a direction, a copy must also be sent to the OGA.

2.4 The Oil and Gas Authority

2.4.1 Establishment of the Oil and Gas Authority

The OGA was established in April 2015 in response to the recommendations of the Wood Review, which was set up by the UK Government to consider requirements to maximise the recovery of oil and gas from the UK Continental Shelf (UKCS). Further information in relation to the review and its implementation can be found at:

<https://www.gov.uk/government/groups/wood-review-implementation-team>

Initially the OGA was established as an executive agency of the Department of Energy and Climate Change (DECC), but DECC was subsequently merged with the Department for Business, Innovation and Skills (BIS) to create the Department for Business, Energy and Industrial Strategy (BEIS). On 1 October 2016 the OGA was therefore vested as a separate Government company (GovCo), with the BEIS SoS as sole shareholder.

Powers under the Petroleum Act 1998 previously administered by the Licensing, Exploration and Development unit of the Department, including the granting of licences which confer exclusive rights to 'search for and get' petroleum or store CO₂ or combustible gases, the consenting of offshore operations and the authorisation of related pipeline systems, are now undertaken by the OGA. The remit of the OGA has also been broadened by the Infrastructure Act 2015, which introduced the statutory objective of maximising the economic recovery of the UK's oil and gas reserves, known as the MER UK Strategy.

The Infrastructure Act also gave the OGA powers to raise a levy on industry to fund the OGA, and regulatory powers relating to offshore operations were created or transferred to the OGA by the Energy Act 2016. Further information on the legislative background and remit of the OGA can be found at:

<https://www.ogauthority.co.uk/>

2.4.2 Licensing functions of the Oil and Gas Authority

The OGA is responsible for issuing exploration and production licences.

An exploration licence grants rights to explore, but not produce, and is non-exclusive covering all acreage outside those areas covered by a production licence. Exploration can also be undertaken within an area covered by a production licence providing the exploration licence holder has the approval of the production licence holder. Applications for new exploration licences or the extension of an existing exploration licence can be made to the OGA at any time and are not part of a competitive licensing process.

Production licenses confer exclusive rights for specified areas and the OGA holds regular licensing rounds whereby companies are invited to bid for offshore blocks or part-blocks released by the OGA. The OGA awards a licence incorporating model clauses in

response to the bids that offer the greatest potential for MER. Further information on licensing can be found at:

<https://www.ogauthority.co.uk/licensing-consents/overview/>

2.4.3 Consents issued by the Oil and Gas Authority

Under the model clauses of a licence, the consent of the OGA is required to commence, suspend or recommence the drilling of any well, to undertake extended well tests (EWTs) or well injection trials related to CO₂ or combustible gas storage, and to complete or recomplete any well or to abandon any well.

Once an economic discovery is made, a field development plan (FDP) must be approved by the OGA for all new fields or for significant extensions of existing fields. When the FDP has been approved, the consent of the OGA is required for all production, flaring and venting operations associated with the development.

A Pipeline Works Authorisation (PWA) must be approved by the OGA for all new pipeline construction works or for the modification of an existing pipeline system.

All of these OGA consenting processes are underpinned by EIA requirements.

2.5 The Offshore Petroleum Regulator for Environment and Decommissioning

2.5.1 Establishment of the Offshore Petroleum Regulator for Environment and Decommissioning

The Department's Offshore Oil and Gas Environment and Decommissioning Unit (OGED) was renamed the Offshore Petroleum Regulator for Environment and Decommissioning (OPRED) in January 2017. OPRED is responsible for administering environmental regulations covering offshore petroleum operations, including oil and gas exploration and production and gas unloading and storage, and for offshore CO₂ storage operations. OPRED also forms part of the competent authority established to implement the Offshore Safety Directive (OSD), in partnership with the Health and Safety Executive (HSE).

2.5.2 The Environmental Management Team

Within OPRED, the Environmental Management Team (EMT) is responsible for the assessment and determination of a wide range of submissions on behalf of the SoS, under the bespoke environmental regime covering offshore oil and gas operations, including CO₂ and combustible gas storage. The assessments undertaken include:

- ESs and applications for EIA Directions;
- Navigational Consent to Locate applications;
- Geological Survey Consent applications;
- European Protected Species (Disturbance) Licence applications;
- Chemical Permit applications;
- Combustion Installation Permit applications
- Emissions Trading Scheme Permit applications; and
- Marine Licence applications.

2.5.3 The Offshore Environmental Inspectorate

Within OPRED, the Offshore Environmental Inspectorate (OEI) is responsible for the assessment and determination of Oil Discharge Permit applications and the review and acceptance of OPEPs on behalf of the SoS, covering offshore oil and gas operations including CO₂ and combustible gas storage. However, the Inspectorate's main role is enforcement of the entire bespoke environmental regime, including monitoring compliance with any conditions attached to ES or EIA Direction determinations.

2.5.4 The Offshore Safety Directive Competent Authority

Both EMT and OEI also contribute to the Department's review of a range of additional submissions relating to the OSD, as part of the partnership competent authority established under the Directive (the Offshore Safety Directive Regulator – OSDR). The assessments undertaken include:

- Licence applications;
- Operatorship applications;
- Design or Relocation notifications;
- Safety Case submissions;
- Well notifications; and
- Combined Operations notifications.

2.6 Regulatory Interactions

2.6.1 Requirement for Secretary of State's agreement

The submission of an application for a consent for well operations, a FDP or a PWA to the OGA is not in itself a means of obtaining approval to carry out the relevant offshore project, and nor is the submission of an ES or an application for an EIA Direction to the Department. The submissions to the Department are the means whereby the SoS is assured that the environmental implications of the proposed project have been properly considered and, subject to all other requirements being satisfied, the SoS can agree that consent for the project can be granted by the OGA. The SoS either determines to issue an EIA Direction that no ES need be prepared, or else reaches a reasoned opinion on the significant effects of the relevant project on the environment, before the OGA can grant consent.

If a relevant project falls within a category which requires the submission of an ES (see Section 2.1), then the supporting ES should be submitted to EMT. If a relevant project falls within a category which requires an EIA Direction (see Section 2.2) then an application should be submitted to EMT seeking confirmation that an ES is not required. Applications for EIA Directions are made via the Portal Environmental Tracking System (PETS), an online environmental permitting system accessed via the UK Energy Portal.

2.6.2 Decision as to whether agreement should be given

When making a decision as to whether to agree to the grant of consent for a relevant project which requires the submission of an ES, the Department will:

- review the information included in the ES, including any further information supplied by the applicant in response to comments on the original submission;

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- review any other information or representations relating to the environmental effects of the project, pipeline or development received from any other person, including advice sought by the Department from people with appropriate expert knowledge;
 - verify that the ES has been prepared by competent experts;
 - confirm that the information provided in the environmental submissions is aligned with the information provided to the OGA; and
 - reach a reasoned conclusion on any potentially significant effects of the project on the environment taking account of the information described above.

The reasoned conclusion must be up-to-date at the time the decision is made. The Department may regard the conclusion as being up-to-date if, in the opinion of the Department, any significant effects addressed in the ES are still relevant.

The Department must integrate its conclusion into the decision as to whether agreement to the grant of consent is to be given or refused, and the decision must be taken within a 'reasonable period of time'. The time taken to reach the decision will, however, depend on the nature and complexity of the project, and the time taken to examine the ES and to consider any representations received in response to the consultation.

Providing there is alignment with the information provided to the OGA and the Department is satisfied that there will be no significant effect on the environment, the decision will confirm agreement to the grant of consent by the OGA. Until the OGA receives that agreement from the Department on behalf of the SoS, it cannot proceed to issue the relevant consent. The environmental submissions to EMT therefore inform the consenting process administered by the OGA.

2.6.3 The agreement decision

The EIA process is designed to ensure that the Department, when taking a decision whether to agree to, or to refuse to agree to, the issue of consent for a relevant project, takes any significant effects on the environment into consideration. For some activities, the environmental assessment will have shown that there are unlikely to be any significant effects, as the nature of the project or the processes and procedures identified in the submission are designed to prevent such effects. However for other activities, likely significant effects may still remain which need to be addressed in conditions attached to the agreement. The decision issued to the OGA may therefore include:

- any environmental conditions relevant to the execution of the proposed activities, such as the timing, duration or location of the proposed activities;
- mitigation measures, including any outlined by the developer in the EIA submission, designed to limit or negate potentially adverse effects by the adoption of practicable available technology or management procedures; and
- monitoring conditions that form part of the agreement, taking account of requirements to ensure that:
 - the parameters to be monitored and the duration of the monitoring are proportionate to the nature, location and size of the proposed development and the significance of its effects on the environment;
 - where monitoring conditions are applicable under other European or national legislation relevant to the project, any additional monitoring relating to the EIA agreement is necessary; and
 - where appropriate, there is provision for any necessary remedial action.

Based on experience of previous EIA submissions, the Department does not expect to routinely include monitoring conditions in its agreement to the grant of consent. However, provision exists in the amended Directive and implementing regulations to include such monitoring conditions if they are considered to be required. Where monitoring conditions form part of the agreement to consent, such conditions will be included in the notice of agreement, which will be copied to any authorities specified in the notice and published on the GOV.UK website at:

<https://www.gov.uk/guidance/oil-and-gas-environmental-statements-reviewed>

2.6.4 The refusal decision

2.6.4.1 Environmental Statements

The Department would not normally expect to have to reject an ES submission, as any significant issues would either be resolved with the developer prior to the preparation of the environmental submission or resolved during the review process. If, in exceptional circumstances, it is determined that agreement to the grant of consent should be refused, the Department will confirm the main reasons for the refusal in a notice to the OGA.

2.6.4.2 Environmental Impact Assessment Directions

In the case of applications for EIA Directions, there may be circumstances where an application is rejected and thus agreement to consent is refused unless the developer then provides an ES. Applications for EIA Directions can also be refused if the proposals fall into a category that can be excluded from the regulatory process as they would be unlikely to have a significant effect on the environment and an EIA Direction is not required, e.g. the construction or augmentation of a pipeline restricted to within 500 m of a well or fixed installation. (The exclusion could not be applied if it was determined that there would be a likely significant effect).

2.6.5 Public notice requirements relating to the decision

2.6.5.1 Environmental Statements

The Department will publish a notice of its decision to agree, or refuse to agree, to the grant of consent in the Gazettes, and on the GOV.UK website at:

<https://www.gov.uk/guidance/oil-and-gas-environmental-statements-reviewed>

In addition, the Department will send a copy of its decision to the authorities specified in the notice issued to the applicant at the time of receipt of the application for consent and/or the ES submission, and to any EEA State provided with a copy of the ES.

The published notice will:

- set out the decision;
- set out the main reasons and considerations on which the decision is based;
- include details of any representations made to the Department;
- confirm any conditions attached to the decision, including any monitoring conditions; and
- specify where details of the above matters may be obtained electronically on the GOV.UK website.

2.6.5.2 Environmental Impact Assessment Directions

Where a decision relates to an application for an EIA Direction, the published notice will:

- set out the decision;
- set out the main reasons and considerations on which the decision is based, with reference to the relevant matters set out in Schedule 1 of the EIA Regulations; and
- where proposed by the developer, state any features of the projects, or measures to be applied, that are designed to avoid or prevent significant adverse effects.

2.7 Coordinated Approach

The amended EIA Directive requires that in the case of projects where there is also an obligation to carry out assessments under Directive 92/43/EEC (the Habitats Directive) and/or Directive 2009/147/EC (the Wild Birds Directive), a coordinated and/or joint procedure should be established. The adopted procedure can also be extended to other relevant Directives, such as Directive 2010/75/EU (the Industrial Emissions Directive). Under a coordinated procedure, a single authority must be designated to coordinate the various individual assessments of the environmental impact of a particular project. Under a joint procedure a single assessment of the environmental impact of a particular project is required.

In the case of activities covered by the EIA Regulations where there is an obligation to carry out assessments under other Directives, there is already a natural progression of assessments coordinated by a single regulatory authority. The developer must submit an EIA assessment to the Department under the EIA Directive that will include information relevant to any requirements under the Habitats, Wild Birds and Industrial Emissions Directives. The Department will then undertake a separate assessment to satisfy the requirements of the Habitats and Wild Birds Directives, as this obligation rests with the competent authority rather than the developer. Providing the Department is satisfied that the proposals will not have a significant adverse effect in the receiving environment, including any protected habitats and species, the Department will then proceed to determine the EIA submission. Where relevant, the developer would then be required to submit an application to the Department under the Offshore Combustion Installations (Pollution Prevention and Control) Regulations 2013, to seek approval under the Industrial Emissions Directive (IED).

As there is already an effective coordinated procedure in place, the Department considered that the current system should be maintained, and this was strongly supported by industry respondents to the consultation on the draft regulations for transposing the amended EIA Directive. The Department also considers that the current coordinated approach results in a logical sequence of assessments that is aligned with development timetables. The Department will therefore continue to implement a coordinated approach that fully meets the requirements of the EIA Directive.

3 Preparation of Environmental Statements and Applications for Environmental Impact Assessment Directions

3.1 High-level Content and Structure

3.1.1 General principles

The EIA submission must describe the project for which consent is being sought, and draw together and present the findings of a study or studies to examine the potential environmental impacts of the project and any proposals to eliminate or mitigate the impacts.

The EIA submission should be clear and logical in its layout and presentation. As it is the written record of the developer's assessment, it should clearly detail where decisions have taken into account:

- the potential direct and indirect significant impacts of the proposed activities on the following:
 - population and human health;
 - biodiversity with attention to species and habitats protected under the Habitats Directive and the Wild Birds Directive;
 - land, soil, water, air and climate;
 - material assets, cultural heritage and the landscape;and the interaction between all these factors.
- the operational effects of the proposed activities and the expected effects deriving from the vulnerability of the projects to risk of major disasters or accidents that are relevant to the activities.

The submission should seek to demonstrate that these considerations have formed an essential and continuous part in the evolution and design of the proposals. To achieve this, information must be presented which shows that:

- the developer is aware of the natural environment and socio-economic issues relating to other users of the sea, the seabed and coastline in the area of the project, and that the data presented are current and relevant. Generic or regional information should be utilised where appropriate, e.g. information taken from the relevant Strategic Environmental Assessment (SEA) undertaken by the Department prior to each licensing round (see <https://www.gov.uk/guidance/offshore-energy-strategic-environmental-assessment-sea-an-overview-of-the-sea-process>), but it should be supplemented by site specific data where this is relevant to the impact assessment. Where information is based solely on generic or regional data, it should be demonstrated why this information is considered relevant to the site in question;
- the developer is aware of relevant environmental and socio-economic sensitivities, and that many sensitivities are subject to seasonal cycles so activities which are acceptable in one season, may not be in another season. The developer must be able to demonstrate that these considerations have been taken into account when

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- planning the operations and should aim to avoid highly sensitive areas or periods where there could be a likely significant effect;
- where alternative solutions are available, the developer has explained how and why the selected option was agreed, including consideration of practicality, safety and cost-benefit, in addition to the comparative environmental impacts and achieving the desired environmental outcome. Option selection is particularly important for new developments, but can also be relevant for other activities such as drilling operations where it may be useful to provide an insight into whether alternatives were considered. For example, there may be options in relation to well location, well design (e.g. slim hole), mud types, cuttings treatment, etc.
 - the developer has identified and assessed the likely consequences of the proposed activities, whether from the physical presence of vessels, equipment and structures, the potential disturbance of the natural environment (atmospheric, marine or terrestrial), or emissions and discharges, and has selected the optimum engineering and operational solutions to achieve the desired environmental objectives;
 - the developer has identified potential in-combination or cumulative effects relating to other operations, including those not controlled by the developer, considering impacts at local, regional and national or international levels;
 - where potential environmental effects have been identified, the developer has identified how these are going to be mitigated and managed during the operations and/or how their consequences are to be monitored in the longer term, particularly taking into account any cumulative effects from other operations in the area, not necessarily controlled by the developer, on a local, regional or national basis;
 - where appropriate, consultation has been undertaken with relevant statutory and/or non-statutory organisations or the general public, identifying how any representations have been addressed in the design of the project;
 - where information is lacking or insufficient, or uncertainties exist, these have been identified and discussed, and the developer has explained any action taken or proposed to remedy the deficiencies; and
 - the developer has assessed and detailed the overall impacts of the proposal, including any direct, indirect or secondary impacts, whether they are short, medium or long term, and whether they are permanent or temporary effects.

Details of the information to be included or addressed in ESs or applications for EIA Directions are set out in schedules 2 and 1 respectively of the EIA Regulations.

3.1.2 The audience

A fundamental concept of environmental legislation is that, as far as possible, it should involve relevant authorities likely to have an interest in proposals and the general public in the decision-making process. It therefore follows that the public, as represented by the informed layperson, should be able to understand the proposals that are the subject of the EIA submission. However, the assessment must also contain sufficient technical detail, in relation to both the natural and socio-economic environments and the engineering design and implementation proposals, to allow the Department and other relevant authorities to undertake a thorough assessment of the proposals. The intention should be to allow all parties to make their own assessment and develop their comments on the proposals.

3.1.3 The purpose

The EIA is a means of submitting the findings of the environmental impact assessment process to a decision maker, i.e. the relevant body that makes the decision based on the information provided, and dissemination of the decision to other relevant authorities, non-government organisations and the wider public. It is explicit in Directives 2011/92/EU and 2014/52/EU, which are implemented through the EIA Regulations, that an assessment must be carried out for specified categories of projects. The preparation of an EIA submission is neither the entire process nor an end in itself, it merely summarises and presents the findings of a process that covers the evolution of the proposals, from first conceptual discussions through to the final engineering design and the implementation programme. The scope of the assessment will be related to the size, location and nature of the project, but in all cases it must thoroughly examine all elements of the project and their potential consequences.

The required matters to be taken into account and the required content of an EIA submission are specified in the Directive and in the schedules to the EIA Regulations, and should be considered and understood by all persons responsible for commissioning, preparing and submitting the document. Where there is any doubt as to the requirements of the EIA Regulations, advice should be sought from the Department or from independent experts.

3.1.4 Balance and emphasis

The ES should be a balanced document, providing an objective, impartial account of the potential significant effects based on reasoned and justifiable arguments, with appropriate prominence given to both positive and negative effects and their significance.

In many cases, more data will be available for certain aspects relevant to the assessment, particularly those aspects that are under the direct control of the developer, but it is essential that sufficient information is obtained for all relevant aspects to facilitate a full assessment. However, it is also essential that excessive detail is avoided. For example, engineering and equipment specifications and commercial information may be readily available, but may not materially add to the environmental assessment. The level of detail included should therefore be the minimum required to satisfactorily describe the processes or justify the selection of particular equipment or a particular mode of operation.

Developers should note that a person who intentionally or recklessly submits materially false or misleading information is guilty of an offence under the EIA Regulations.

3.1.5 Scoping

Developers can scope the content of their environmental submissions, taking account of the requirements of the Directive and the EIA Regulations, and this would be normal practice for applications for EIA Directions, and for most ESs relating to any change to or extension of an existing Annex I project. Some developers with significant experience of the Directive and regulatory requirements also prefer to scope their ESs for new developments, although the Department would always recommend a meeting to discuss new projects.

As an alternative to ‘self-scoping’, developers can initiate an informal scoping process for all projects requiring an ES, or make an application to the Department requesting a formal scoping opinion.

3.1.5.1 Informal scoping

For significant projects requiring an ES, when the projects are at a significantly advanced stage of development to enable the assessment of potential impacts of the proposals, most developers opt to initiate an informal scoping procedure, through:

- an informal meeting involving the developer (and, if relevant, the environmental consultancy they have appointed to draft the ES), the Department and key environmental and other authorities or interested parties; and/or
- the submission of a proposed scoping document to the Department, requesting comments on the proposed content of the ES, which the Department would circulate to environmental and other authorities or interested parties for comment prior to responding to the proposal.

In both cases, it is recommended that the Department is contacted at an early stage to request initial comments, to ensure that the proposed scope of the EIA assessment is adequate. It is also recommended that informal consultation is undertaken with key interested parties such as environmental authorities, conservation groups, and other users of the sea, and where appropriate the general public, to ensure that their requirements are incorporated into the process, as this will speed up the process.

Informal scoping presentations or documents should summarise the project, the environmental sensitivities, the outcome of any informal consultation with relevant stakeholders and any proposed mitigating measures. Where comments have been received directly from stakeholders, it is also recommended that these should be discussed with the Department prior to the preparation of the ES. If undertaken correctly and early in the preparation process, informal consultation is considered to be very valuable and appropriate, particularly for larger projects or for activities in potentially sensitive areas. It allows the developer to identify potential difficulties before the ES is prepared, and can therefore reduce or eliminate delays at the review stage, and as a consequence also reduce costs.

3.1.5.2 Formal scoping opinion

As an alternative to informal scoping, the developer can submit a formal request for a scoping opinion to the Department, and the Department must then issue an opinion on the required scope and, to a certain extent the level of detail, of the ES. The Department must take into account the information provided by the developer in relation to the specific characteristics of the project (e.g. its location and technical capacity), and develop an assessment of the likely impacts in the receiving environment. It must then serve notice on the developer and the authorities likely to be interested in the relevant project, setting out the opinion that the Department is minded to give and providing a reasonable opportunity for the submission of representations relating to the opinion. The Department must then consider those representations prior to finalising and issuing the formal scoping opinion. It is therefore essential that developers apply for a formal scoping opinion at an early stage, to avoid delaying the preparation of the ES.

Where a formal scoping opinion has been requested, the ES must be “based on” that opinion, and the Department cannot request that new issues should be addressed prior to making a determination. It can however still request additional information that may be reasonably required to reach a reasoned determination in relation to the issues that were identified in the formal scoping opinion, taking into account current knowledge and assessment procedures.

3.1.6 Obtaining information for the preparation of an Environmental Statement

Where information is held by the Department or another authority with environmental or local or regional competence that would assist in the preparation of an ES, but the information cannot be reasonably obtained via normal published sources or commercial channels, then the EIA Regulations allow the developer to request that the Department should provide, or facilitate the provision of, such information. Where the Department holds the requested information, it will be provided directly to the developer. Where the Department does not hold the requested information, but considers that another authority with environmental or local or regional competence may hold the information, the Department will provide the developer with contact details for the relevant authority, and serve a notice on that authority, accompanied by a copy of the developer’s original request, confirming the requirement to provide such information. If the identified authority does not hold the requested information, or there are confidentiality issues that would preclude release of the requested information by either the Department or the identified authority, the Department will advise the developer accordingly.

3.2 Content of Environmental Statements

3.2.1 The Non-Technical Summary

The non-technical summary (NTS) should provide sufficient information to allow a non-specialist reader to understand the proposals and main impacts and proposed mitigation, without recourse to consideration of the rest of the ES. The requirements are set out in paragraph 12 of schedule 2 to the EIA Regulations. It should include a summary description of the project and the receiving environment, and summaries of the main alternatives considered, the aspects of the environment likely to be affected by the development, any likely significant impacts and the mitigation measures to be implemented. Maps, figures and tables should be included, to support the text, or there should be appropriate references to relevant entries in the main document.

The use of technical terms should be kept to a minimum, particularly within the NTS, and a list of abbreviations, a glossary of terms and a full list of references should be provided. The inclusion of information not directly relevant to the proposals and the impacts should be avoided, and clear and legible figures or diagrams should be provided wherever this would assist in understanding the location of the project, the associated installations and subsea infrastructure installations and any potential impacts, ensuring that all features mentioned in the text are clearly identified. Consistent technical terminology is essential, using metric units except where the conversion of well-established oilfield units would cause confusion. Ambiguous terms such as a billion and unexplained unit abbreviations should be avoided, and if non-scientific notations are used this should be explained.

Where there are still uncertainties relating to specific aspects of the proposals, for example where a number of techniques, technologies or operational arrangements could be applied

and the final choice has still to be confirmed, the ES should briefly describe all the options and compare their environmental impacts, and discussion of the overall predicted impact should be based on the worst-case scenario in terms of environmental impact. For example, if the ES relates to a proposed well and it is possible that an EWT will be undertaken, the developer should describe the maximum likely volumes of hydrocarbons to be produced and the maximum duration of the EWT, and the assessment of significance should be based on the maximum emissions resulting from the EWT.

3.2.2 Option selection

The ES should describe the main alternatives to the proposed project that have been considered, and clearly describe the advantages and disadvantages of each option and the associated environmental implications. The main reasons for selection of the preferred option should be summarised, taking particular account of the environmental issues. Other factors influencing the final choice should also be recorded, e.g. feasibility including technical constraints and cost effective issues relating to each option. If a formal option appraisal system has been used, it should be described and the relevant decision factors identified.

Where appropriate, consideration should always be given to alternative sites (including pipeline routes), alternative timing, alternative construction methods, alternative plant and equipment and alternative operating practices. Wherever possible, the Department would always encourage the use of existing infrastructure, and if there is existing infrastructure available but its use is not the selected option then a robust justification should be provided. The consideration of alternatives may also be relevant for the drilling of a well and details of the decision-making process should be included, e.g. alternative sites, alternative rig types, alternative timing, slim hole, horizontal or extended reach technologies, alternative drilling muds and alternative cuttings treatment and disposal options.

Where final option selection has not been made before the submission of the ES, it is acceptable for more than one option to be presented in the assessment. However, sufficient detail must be provided to permit a full assessment of each option. The Department may then issue a positive decision for all the options, or for a specific option. Where the Department agrees to more than one option, written confirmation of the selected option must be notified to EMT (emt@beis.gov.uk) at the time of submission of the final draft of the FDP.

3.2.3 Characteristics of the project

The ES should describe the purpose and objectives of the project and these should be placed in the context of local, regional and national plans, objectives or strategies. For example, in the case of oil and gas projects, the design and timing of the proposals may be linked to security of supply.

The description of the project should be sufficiently detailed to enable the reader to understand its essentials and should include:

- the nature of the project;
- the design of the proposals;
- the physical elements of the proposals, including details of any demolition works required;

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- the location in terms of the licence quadrant and block and the latitude and longitude coordinates;
 - the proposed timing;
 - the area occupied during construction and operation;
 - the energy demand and energy used, the nature and quantity of materials used including natural resources such as water;
 - the sources and anticipated quantities of any residues or wastes, or discharges or emissions to the environment; and
 - any other aspects relevant to the environmental impact.

Where the project is a new offshore oil or gas field or storage development, the description should cover all elements of the proposals, including development drilling operations, the deployment of subsea, surface or platform installations, the deployment of subsea connected infrastructure including pipelines and umbilicals, and details of the proposed means of export or import of production or storage gases. Each element should be described in sufficient detail to enable adequate assessment of the likely environmental impacts. If the development is to be carried out in stages, possibly over a prolonged period, the anticipated full extent of the proposals should be described.

Where the project is the drilling of a well that has been determined to require an ES, the description should include the location of any anchors, which can be a significant distance from the rig and could impact fishing operations or protected habitats such as pockmarks containing Methane Derived Authigenic Carbonate (MDAC) structures, reefs or sandbanks.

The description should be supported by appropriate maps and/or diagrams, and particular care should be taken to ensure that any text is clearly legible. They should enable the reader to identify where the project is located in relation to the UK mainland or islands, and put the project into context with other offshore oil and gas fields and/or infrastructure. Maps and/or diagrams can also be very useful to put the proposals into context in relation to other important features, such as:

- other offshore operations such as windfarms or aggregate extraction areas;
- sites protected under international or domestic legislation, e.g. Special Areas of Conservation (SACs), Special Protected Areas (SPAs), Marine Conservation Zones (MCZs) and Marine Protected Areas (MPAs);
- fish spawning and nursery areas;
- seabird sensitivity;
- marine mammal sensitivities; and
- fishing intensity.

3.2.4 Environmental description

The environment of the project should be clearly described and, where useful, indicated on an appropriate map or diagram. For example, the bathymetry of the area should always be detailed in a map or three-dimensional diagrammatic representation, but it may be unnecessary to map the seabed type if it is uniform throughout the development area. The ES should also describe any policies, plans or designations that are relevant to the project location and its surroundings.

3.2.4.1 Extent of the area to be considered

The area covered by the environmental description should be consistent with the area that could potentially be impacted by the project, and should include any elements located outside the immediate location of the project, such as anchors and anchor chains, pipelines and umbilicals connecting to other developments, export / import systems, etc.

3.2.4.2 Baseline information

The ES should describe the current environment at the project location, using existing data such as the information included in SEA studies undertaken by the Department and information in published literature. Wherever possible it should also incorporate recent site-specific data directly related to aspects that are likely to be affected by the project and any relevant existing activities, including any relevant trends and the likely evolution of the environment if the proposed project, pipeline or development isn't implemented. For example, sediment characterisation, chemical contamination and benthic organism descriptions should be relevant to the area likely to be impacted by cuttings discharge from drilling operations, and information provided in relating to future trends both with and without the drilling operations. The baseline description should also include information relating to other users of the sea, where appropriate including coastal aspects such as amenity use, and should be illustrated with relevant maps and/or diagrams and text summarising activities such as shipping, fishing, offshore renewables and aggregate extraction. Any relevant discharges, emissions and impacts relating to other users should also be considered and discussed.

Where existing data is used to establish the baseline, the source of the data should be identified and a justification for using the data provided. The most up-to-date available data should be used and if the only available data is fairly old its use should be justified and this may be a strong driver to undertake additional survey work (see section 3.6). When survey data is being presented, a clear description should be provided detailing the type of survey, the methods employed, the equipment used, the area surveyed, and a summary of all the relevant results. Wherever possible, the data should be expressed quantitatively in addition to any qualitative description. The data should be evaluated in the context of the proposed activity, and the sensitivity and importance of the environmental features likely to be impacted, including any seasonal variations. Where photographic evidence has been collected, it is useful to include some examples to supplement the text.

Useful relevant information in relation to both the baseline and the impact assessment may be obtained from the sources detailed below. However, the list is not exhaustive and other references should be used as considered appropriate:

- relevant threshold limits, e.g. World Health Organization (WHO) threshold limits;
- relevant quality standards, e.g. EU Quality Standards or other published background levels;
- information presented in the Department's Offshore Energy Strategic Environmental Assessments;
- information presented in the Scottish Marine Renewables Strategic Environmental Assessments;
- information included in relevant environmental designations, e.g. protected sites;
- North Sea Quality Status Reports; and

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- Atlantic Frontier Environmental Network (AFEN) publications and other publicly available survey information.

The baseline description should place the area that could be impacted in the context of its surroundings, so that future surveys could be undertaken to demonstrate any changes in relation to the surrounding area. Any gaps or limitations in the environmental information should be acknowledged and, where appropriate, strategies proposed to address the deficiencies. The commonly adopted strategy of simply basing the description on familiar (and in some cases historic) references is unlikely to be acceptable and should be supported by more recent data obtained from in-house studies or more recent published work.

Appropriate maps or diagrams should be provided, clearly indicating the surveyed area and the location of all elements of the project, and identifying sampling sites and/or the locations of any photographic evidence included in the ES.

3.2.5 The environmental assessment process

The ES should summarise the assessment process that has been undertaken throughout the development of the project and report the conclusions of the assessment.

3.2.5.1 Methodology

The ES should describe the assessment methodology that has been undertaken to identify and rank the key impacts. The description should include the results of any consultation with relevant environmental authorities or potential consultees, including the general public, undertaken prior to submission of the ES, and any concerns raised should be addressed in the submission even if they are considered incorrect and based on misconceptions. Where issues are raised but not addressed in the ES, a justification for the exclusion should be provided. The ES should also identify any difficulties encountered in applying the selected assessment methodology.

3.2.5.2 Impact Identification

The assessment should identify those aspects of the environment that are likely to be significantly affected by the project (including in particular, population, fauna, flora, geology and soil, water, air, climatic factors, material assets, including the architectural and archaeological heritage, landscape and the inter-relationship between the above factors). A description of the impact on climate and air should also include consideration of the impact on global warming and the ozone layer, in addition to the impact on local and regional air quality issues and should include the quantities of emissions to the atmosphere over the life of the project. Emissions should be characterised into chemical species important in the context of global warming, ozone layer depletion and local, national and regional emission loads and air quality. Full details of the aspects that should be addressed are detailed in the schedules to the EIA Regulations.

3.2.6 Operational effects

The EIA Directive requires that the ES should identify, describe and assess the direct and indirect significant effects of the project, including the operational effects. In particular, the Department would expect that:

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- the developer should describe the main characteristics of the construction and operational phases of the project, in particular:
 - the nature and quantity of the materials and natural resources used;
 - the number and type of support vessel and helicopter movements;
 - the energy demand and use; and
 - the nature and impact of the project; and
 - a description of the mitigation measures and any proposed monitoring arrangements designed to avoid, prevent, reduced or offset any significant adverse effects of the construction and operational phases of the project.

If the development is to be carried out in stages, the anticipated full extent of the operational activities should be described and, as far as possible, the effects assessed, acknowledging that it may not be possible to fully assess in-combination and cumulative impacts.

For offshore oil and gas projects, developers will be expected to include detailed information on the combustion equipment to be used during all phases of construction and operation, and the expected associated emissions; the anticipated production, processing and export during the life of the project; the likely chemical use and discharge requirements during the life of the project, the produced water treatment and discharge proposals during the life of the project; and other waste treatment and management measures during the life of the project, including the management of Naturally Occurring Radioactive Material (NORM).

The ES should provide reasoned estimates for all emissions and discharges, and should describe the main characteristics of the operational processes. For example, the combustion equipment requirements, the anticipated processing and export requirements and the nature and quantity of chemical use and discharge should be estimated with reference to the production rates over the life of the project, to derive estimates of the scale of all emissions and discharges.

The production figures used to derive the estimates should reflect the levels included in the FDP. Whilst it is often normal practice to request production consents based on the P₅₀ case, it is recommended that the environmental assessment should be based on the best-case predicted levels (normally termed the P₁₀ production level). This should ensure that the worst-case emission and discharge profiles are assessed, to avoid a requirement for a new assessment in the event of a production increase. Section 2.1 explains the relevant production or production increase thresholds that necessitate an ES, and production information can be presented in a graphical form but must also be presented in a tabular format using the units detailed in the EIA Directive, in addition to including the more commonly-used industry units detailed in the FDP.

The ES should also address the risk and potential impact of failure, accident or malfunction of any of the operational equipment or control systems (including those related to the reservoir), the precautions to be taken to prevent these occurrences and how these will be incorporated into the operational procedures.

3.2.7 Sites for the protection of Annex I habitats and Annex II species

Details of any relevant SACs or SPAs, or proposed sites that are the subject of consultation, should be provided in the baseline description, including any sites that do not overlap with the location of the project but could be impacted by the proposed activity.

Appropriate maps or diagrams should be provided, clearly indicating the locations of relevant site boundaries. Where there are no sites or proposed sites in the immediate vicinity of the project, it can be useful to provide a larger scale map clearly indicating the distance to the nearest sites.

Where the relevant Statutory Nature Conservation Body (SNCB) considers that a project could have a significant effect on a SAC or a SPA, it is likely that they will recommend that the Department, as the competent authority, should undertake a screening assessment (often called a Likely Significant Effects assessment, or LSE assessment) or a full Appropriate Assessment (AA). Both processes can also be covered by the term Habitats Regulations Assessment (HRA). Most requests for a HRA relate to activities within the boundary of a protected site, but the SNCBs can also request a HRA if a project outside the boundary of a site could impact the habitat or species relevant to the site.

Although the requirement to undertake the assessment rests with the Department, it is essential that all EIA submissions address the potential impacts on SACs or SPAs, both as part of the assessment of the proposed activities and to inform the Department's HRA. Wherever possible, the information provided should be both qualitative and quantitative, for example to confirm the proportion of the protected site or species likely to be affected by the project.

Two examples of the type of information that should be included in EIA submissions to inform the Department's HRA are summarised below:

- If the seabed is critical to the protected habitat or species and the proposals involve drilling operations using Water Based Mud (WBM) and the sea disposal of the cuttings:
 - what quantity of cuttings will be discharged to sea,
 - what area of the seabed is likely to be impacted,
 - what percentage of the protected site does this represent,
 - what is the likely impact on the qualifying feature, and
 - what is the significance of the impact?
- If the seabed is critical to the protected habitat or species and the proposals involve rock dumping in connection with rig stabilisation or pipeline protection:
 - what is the total quantity of rock to be deposited,
 - what area of seabed is likely to be impacted,
 - what percentage of the protected site does this represent,
 - what is the likely impact on the qualifying feature, and
 - what is the significance of the impact?

It is essential that sufficient information is presented in EIA submissions to enable the relevant SNCB to determine whether a significant effect is likely, and to support the Department if the SNCB requests that a HRA should be undertaken to determine the significance of any potential effects arising from the project.

Developers may find it useful to refer to the European Commission, Environment DG, Guidance on AAs which the Department uses as a template when undertaking such assessments, and in particular Annex 2 to the Assessment of Plans and Projects significantly affecting Natura 2000 sites:

http://ec.europa.eu/environment/nature/natura2000/management/docs/art6/natura_2000_assess_en.pdf

3.2.8 Other protected habitats and species

Details of any other protected sites or species, or proposed sites or species that are the subject of consultation, should also be included in the baseline description, including details of any protected mobile species that are not associated with a specific protected site but are commonly found in the vicinity of the project. The sites considered should include any relevant Ramsar sites, MCZs, both international and domestic MPAs, Marine Nature Reserves (MNRs) and Sites of Special Scientific Interest (SSSIs).

Appropriate maps or diagrams should be provided, clearly indicating the locations of relevant sites, including those that do not overlap the location of the project but could be impacted by the proposed activity. Where there are no protected sites in the immediate vicinity of the project, it can be useful to provide a larger scale map clearly indicating the distance to the nearest sites

Although there is no requirement for the Department to undertake a separate assessment (HRA) for sites other than SACs and SPAs, it is still essential that the EIA submission addresses potential impacts on other protected sites and species. Again, wherever possible, the information provided should be both qualitative and quantitative, for example to confirm the proportion of the protected site or species likely to be affected by the project. It has also been agreed that sites which are the subject of consultation should be considered as designated for the purposes of EIA assessment.

3.2.9 Marine Plans

Submissions relating to proposals to be undertaken within an area that is covered by an adopted marine plan, or proposals to be undertaken in an adjacent area where potential impacts are likely within the marine plan area, must include consideration of whether the proposals are in accordance with relevant marine plan policies. There may be a number of plan policies that are relevant to the proposals, including general or sector specific policies. Impacts on the policies should be addressed in a proportionate manner, depending on the size and complexity of the project and the relationship to the policy, and in many cases it will be possible to conclude that there will be no impact on a policy. Further guidance on marine planning and the consideration of marine plans can be found on the GOV.UK website.

3.2.10 Major accidents and disasters

The EIA Directive requires that the submissions should identify, describe and assess the direct and indirect significant effects resulting from the vulnerability of the project to risks of major accidents or disasters, including those disasters caused by climate change.

3.2.10.1 Major accidents

There is already a requirement to assess worst-case oil spill scenarios resulting from major accidents in an EIA, summarising the likely fate and impact of potential releases. The Offshore Installations (Offshore Safety Directive) (Safety Case etc.) Regulations 2015 (SCR 2015) transposed the requirements of the OSD, and came into force on 19 July 2015. The primary aim of SCR 2015 is to address major accident hazards and reduce the associated risks to the health and safety of the workforce employed on offshore installations or in connected activities. However, SCR 2015 also aims to increase the

protection of the marine environment and coastal economies against pollution and to ensure appropriate response mechanisms are in place in the event of such an incident. SCR 2015 therefore also requires the major accident hazards to be identified in relevant OSD submissions, and an assessment made of the potential for, and environmental consequences of, a Major Environmental Incident (MEI) resulting in significant or serious damage to the environment.

To meet the requirements of the EIA Regulations and SCR 2015, the Department therefore expects developers to assess the impact of:

- the major accident scenario that would result in the worst-case potential release of hydrocarbons, such as a well blow-out resulting in an uncontrolled release of gas or liquid hydrocarbons that could only be stopped by drilling a relief well, or the total loss of a Floating Production Storage and Offloading vessel (FPSO);
- the major accident scenarios identified in a related OSD submission, such as a design or relocation notification, a safety case or a well notification; and
- the major accident scenarios identified in an OSD submission that would result in a MEI.

The major accident scenario that would result in the worst-case potential release of hydrocarbons must be modelled and assessed both to inform the EIA and to support the OPEP submission, but a MEI can only occur as a consequence of a major accident hazard identified in the OSD submission. In most cases, the worst-case scenario relating to the identified major accident hazards will equate to the worst-case potential release assessed under the EIA process. The assessment in the EIA will therefore be relevant and will additionally confirm whether there is likely to be a significant impact that would constitute a MEI.

In exceptional cases, the worst-case scenario relating to the identified major accident hazards will not equate to the worst-case potential release assessed under the EIA process, because the EIA submission has assessed a scenario that has such a very low probability that it has not been included as a major accident hazard in the OSD submission. The most commonly cited example relates to FPSO operations, where the risk-based safety case has considered a major accident scenario that could result in the loss of containment from one or two cargo holds, but the EIA submission has assessed the absolute scenario of total loss of the vessel. In such exceptional cases, if the EIA assessment has demonstrated that the worst-case potential release would be unlikely to result in a significant impact, then it can be concluded that a smaller scale release relating to a major accident scenario identified in the OSD submission could not result in a MEI. However, if the EIA assessment has concluded that the worst-case potential release would be likely to result in a significant impact, then it may also be necessary to model and assess the smaller scale release or releases relating to the major accident scenarios that have been identified in the OSD submission, to confirm whether those scenarios could also result in significant impacts and whether those impacts had the potential to constitute a MEI.

In all cases, it is recommended that a single document is prepared that combines the requirements of the EIA, the OPEP and the MEI assessments, and the amended EIA Directive requires that the assessment of accidental events must form part of the EIA submission. The OPEP can then reference the EIA submission and concentrate on the response strategies to combat the release. The OSD submissions can also reference the

EIA assessment and provide a brief summary of the relevant accident scenarios and environmental sensitivities, the potential environmental impacts and whether the impacts have the potential to constitute a MEI.

The ES should therefore identify potential accidental events relating to the project; identify the accidental events that have the potential to result in a significant environmental impact; identify relevant mitigation measures in place to prevent a release; model the worst-case scenario to determine the fate of the release; and describe the impacts of the worst-case scenario. The ES should also confirm whether any of the impacts could be significant and/or constitute a MEI.

Developers should also draw upon the conclusions and recommendations detailed in the various reports relating to the *Deepwater Horizon* accident, and relevant reports relating to other major accident events, to confirm that appropriate measures form part of the management plan for the proposed activity.

3.2.10.2 Major disasters

There is already cursory mention of some potential disaster scenarios in EIA submissions, such as the requirement for specific rig types in particular areas or the design requirements relating to the 100 year wave. It will now be necessary to refer to the likelihood of other natural disasters that could impact proposed activities, such as the likelihood of earthquakes or tsunamis and, if appropriate, to provide an assessment of potential impacts. In the vast majority of cases, the probability of such disasters in UK waters will be extremely low, and it will be sufficient to reference the scenarios and their likelihood, and to reference the design specifications adopted to mitigate the more likely scenarios, but it will be unnecessary to address the potential impacts. Where there is a potential impact on a project, development or related infrastructure, a brief description should be provided, and it should be confirmed that the environmental impacts would be covered in the section dealing with the worst-case accident scenarios.

3.2.11 Demolition operations

There is a new reference to 'demolition' in the amended Directive, but this is taken to refer to any demolition works that are necessary prior to the proposed activity and does not refer to future abandonment of a well or the decommissioning of a pipeline or proposed development. The requirement to address demolition is therefore more pertinent to terrestrial projects, where it is often the case that existing facilities have to be demolished prior to a new development.

It is extremely unlikely that a requirement to address demolition would ever arise in relation to a project covered by the EIA Regulations, given the provisions that are in place to ensure that all significant offshore projects, including renewables, would have to be abandoned in accordance with existing legislative requirements. A new developer would therefore be very unlikely to have to deal with demolition operations relating to a previous project, pipeline or development prior to a proposed activity.

Reference to the future abandonment of a proposed well or the decommissioning of a proposed pipeline or development in an EIA should therefore be limited to confirming how future decommissioning requirements have driven the initial design of the project. For example, explaining whether a well will be abandoned following completion of the drilling operations, or suspended for potential future development or immediately brought into

service and then abandoned at a later date; or confirming that the design and installation of a proposed pipeline or development have taken into consideration the possible requirement for complete removal at the end of field life if that is a requirement of the legislation at that time. There is no requirement to provide detailed information in relation to how removal will be achieved at the time of abandonment or decommissioning, or to provide a demonstration of the likely significant effects of the activities.

There is a separate requirement for an impact assessment to support applications for the environmental approval of well abandonment operations, using the PETS Well Intervention application procedures; and for an impact assessment to support the Decommissioning Programme for a development, and to support the subsequent applications for environmental approval of the proposed activities using the PETS Decommissioning application procedures. Those impact assessments are not covered by the EIA Directive requirements and therefore not covered by this guidance. Those assessments should therefore concentrate on describing the proposed activities and the potential impacts, and it is not necessary to consider the more detailed content requirements included in the EIA Regulations. Nevertheless, some elements of this guidance may prove useful when preparing the assessments.

3.2.12 In-combination and cumulative impacts

The assessment should also consider the impacts of other existing, consented or planned activities in the development area, and determine whether there are likely to be any significant in-combination or cumulative impacts.

A single project may involve several different activities impacting the same receptor repeatedly or impacting different receptors to the detriment of the entire ecosystem. When considered alongside other projects which are in existence, have been approved or are under consideration, the impacts of the projects could combine to give rise to likely significant effects on the same or different receptors. This may arise due to their relative proximity in space or time or because a receptor is particularly sensitive. One example that could be of obvious significance would be separate projects located within a protected site, where the effects of the individual projects are fairly trivial but the combined effect could be significant. The assessment should therefore consider whether other plans or projects would make potential effects more likely to occur; would make potential effects more likely to occur at a significant level; or would generate any new or different effects.

Impacts arising from different activities within a project or from different projects may be simply additive, be more adverse than the sum of the parts (synergistic), or be less than would be expected if the known effects of the individual substances are added together (antagonistic). In-combination or cumulative impacts may be direct or indirect, temporary or permanent, short, medium or long term, reversible or irreversible and positive or negative. All should be documented and any difficulties in undertaking the assessment should be recorded. For example, it may be difficult to assess the combined effects of different projects on a receptor due to the limited information available in relation to one of the projects, or because of a lack of scientific understanding or evidence.

Where the impact assessment indicates that in-combination or cumulative effects are likely to be significant, a description of the measures to avoid, prevent, reduce or offset the effects should be documented, together with a description of how this would change the effects, and any residual impacts.

Although it is a little out of date, the EU 'Guidelines for the Assessment of Indirect and Cumulative Impacts as well as Impact Interactions' (May 1999) provides useful information in relation to the general principles of cumulative impact assessment, and can be found at:

<http://ec.europa.eu/environment/archives/eia/eia-studies-and-reports/pdf/guidel.pdf>

3.2.13 Prediction of magnitude and significance of impacts

The ES should evaluate any direct effects and any indirect, secondary, cumulative, short, medium and long-term, permanent and temporary, positive and negative effects, resulting from the proposed activity, the use of natural resources, the emission or discharge of pollutants, the creation of nuisances and the treatment and elimination of waste. Predictions of the magnitude and significance of the likely effects of the project must be included, and discussion of likely significant effects should be accompanied by an indication of the criteria used to determine whether an impact is 'likely' and whether it is 'significant'. Where recognised criteria are used, they should be referenced.

The magnitude of the impacts should be predicted in terms of the deviation from the established baseline conditions, for each phase or element of the proposals. The information and data used to predict the magnitude should be clearly described, and where there are any gaps or uncertainties they should be identified. The methods used to establish the magnitude should also be clearly described, and demonstrated to be appropriate and reasonable in relation to the likely importance of the impact. Where assumptions or unsupported data have been used in the predictions, these should be highlighted and an indication provided of reliability / confidence of those assumptions or data. Quantitative estimates of the levels of impact, where appropriate including levels of confidence, should be documented, clearly indicating where the levels are reduced or eliminated by the proposed mitigation.

The significance of all impacts should be assessed with reference to appropriate national and international quality standards (e.g. WHO Limits, EU Quality Standards etc.). Where relevant standards do not exist, the ES should describe the judgments (assumptions and value systems) that underpin the attribution of significance. The assessment of significance should consider the deviation from the established baseline, the sensitivity of the environment and the extent to which the impact will be mitigated or is reversible. The range of factors which are likely to influence the assessment of significance should be clearly identified, and consideration given to how relevant variables will affect the significance of the impacts over the life of the development and any that will remain following mitigation.

3.2.14 Mitigation and follow-up

The ES should describe the measures proposed to eliminate, reduce or otherwise mitigate potential significant adverse impacts. It should provide an indication of the predicted effectiveness of the stated measures, and demonstrate a firm commitment to implementing the proposed measures, where appropriate indicating how and when the measures will be implemented and confirming lines of responsibility for ensuring implementation. Where there is uncertainty over their efficacy, or the assessment is dependent on assumptions, a justification should be provided for the proposals. In all cases it is recommended that a programme of work should be established to qualitatively and/or quantitatively monitor the effectiveness of the measures, in terms of the relevant

outputs (e.g. reductions in emissions, discharges, noise, light, etc.) and resultant environmental impacts.

Developers should always take seasonal sensitivities into consideration when planning proposed activities, and where there are conflicting sensitivities consideration should also be given to whether one resource is more sensitive than another during the period of the proposed operations. Wherever possible, all relevant factors should be evaluated to identify the most suitable timing for the proposed activities, and if necessary advice should be sought from relevant bodies such as SNCBs and fisheries research organisations. Developers should also ensure that offshore operations are undertaken in a manner to prevent pollution incidents, and should ensure that relevant mitigation measures are employed to prevent the accidental release of oil or chemicals to the sea, e.g. through containment measures, operational procedures and adherence to good practice. In all cases, the Department would expect industry best practice to be followed.

The ES should provide details of any management plan that is to be implemented to deliver the mitigation measures and to monitor the environmental impact of the project. This should include details of the time scales for specific elements of the management plan, in relation to the time scale of the proposed activities and their geographical extent. Where a management plan is to be integrated into an Environmental Management System (EMS) then the ES should include relevant details, including how this would align with the developer's environmental policy and the provisions for monitoring the impacts of the project and for auditing of the system's effectiveness.

3.2.15 Environmental commitments

Any commitments relating to matters addressed in the ES should be drawn together into one section or table and be clearly identifiable. Developers should also indicate how they intend to monitor these commitments to ensure compliance. These commitments will usually be incorporated into the ES decision as conditions of the acceptance and may be passed on to the OGA for inclusion in any relevant consent.

3.3 Competent Experts

The Directive requires that the ES is prepared by competent experts, and the Department would expect the experts to either be personnel employed by the developer or personnel employed by a relevant oil and gas / environmental consultancy. To fully transpose the requirements of the Directive, it has been determined that, in future, ES submissions must be accompanied by a statement provided by the developer outlining the relevant expertise or qualifications of the key personnel involved in the preparation of the submission. This statement will form part of a summary document that will have to be included as a preface to all ES submissions, which can be found at Appendix B.

The Department is also required to ensure that appropriate experts are involved in the review and determination of ES submissions. This requirement is already met by the use of technical specialists within the Department, and extensive consultation involving experts from relevant bodies. The Department will therefore continue to ensure that, where necessary, advice is obtained from persons with appropriate expert knowledge.

It is recognised that many developers employ independent consultants to support the preparation of both ESs and applications for EIA Directions. However, the Department considers it essential that, as a minimum, personnel employed by the developer should

direct the process and should quality assure the final product before it is submitted to the Department. This also helps to ensure that the project that is the subject of the consent application is conducted in accordance with the procedures detailed in the ES or the application for an EIA Direction. By establishing ownership of any environmental commitments in this manner, there are clear lines of responsibility to ensure that the commitments are fulfilled. A post-operations audit should also be undertaken to verify compliance with the stated commitments. Developers are reminded that a person who intentionally or recklessly submits materially false or misleading information is guilty of an offence under the EIA Regulations, and that the Department's Offshore Environmental Inspectors will monitor compliance with the ES commitments.

3.4 Content of Applications for Environmental Impact Assessment Directions

3.4.1 Environmental Impact Assessment Direction requirements

Applications for EIA Directions to confirm that an ES need not be submitted can be sought for all EIA Directive Annex II activities that are not subject to a mandatory ES requirement (see Section 2.2). The minimum requirement is that the 'appropriate particulars' described in regulation 3(1) of the EIA Regulations must be assessed and details included in the appropriate application for an EIA Direction.

Requests for an EIA Direction that the project need not be accompanied by an ES can be made under regulation 6(1) or 6(2) of the EIA Regulations:

- An EIA Direction may be sought under regulation 6(1) where the project is not subject to an ES requirement and is unlikely to have a significant effect on the environment.
- An EIA Direction may be sought under regulation 6(2) where the project has already been assessed in an ES and the developer is seeking confirmation that a further ES is not required for specific elements of the project.

If an EIA Direction is sought under regulation 6(2), the application should reference the original ES. It should also confirm that the ES addressed the proposals detailed in the application for the EIA Direction and that the ES concluded there would be no significant adverse effects. The Department can only issue an EIA Direction under regulation 6(2) if it is satisfied that the consent applied for would not give rise to significant adverse effects.

Applications for EIA Directions are submitted by the installation or well operator appointed under OSD using PETS, and the submissions are reviewed by the Department and relevant consultees. Applications for EIA Directions relating to drilling operations are submitted under a Drilling Master Application Template (DRA MAT); applications relating to pipeline operations are submitted under a Pipelines Master Application Template (PLA MAT); and applications relating to production operations are submitted under a Production Master Application Template (PRA MAT). Separate Subsidiary Application Template (SAT) applications are then required for specific types of EIA Directions, e.g. to drill the well, to undertake an EWT, to install or augment a pipeline, to deposit materials to protect a pipeline, to commence production or to increase production.

Developers should note that all applications for environmental approvals, including applications for EIA Directions, can be updated as necessary if there are any changes to

the proposals prior to determination of the applications, and that variations of all approvals can be requested following determination of the applications providing the relevant approvals have not expired. However, if the relevant approvals have expired, it will be necessary to submit new applications and recommence the approval process. Developers should therefore carefully monitor the progress of operations in relation to approval expiry dates, to avoid an unnecessary delay resulting from a requirement to submit a new application.

3.4.2 The Department's expectations

The Department expects the topics addressed in an application for an EIA Direction to broadly mirror the topics included in an ES, although more detail would be expected in an ES. The applicant will specifically need to ensure that the submission includes the 'appropriate particulars' as defined in the EIA Regulations, and that it addresses the matters set out in Schedule 1 of the regulations.

The description of the relevant project should include discussion of the following:

- the physical characteristics of the project (basic details relating to the project elements and work programme are requested in the MAT and SAT documents, and discussed in the submissions supporting the applications);
- the location of the project with particular regard to the environmental sensitivity of the geographical areas likely to be affected by the project, including any protected species or habitats (the Department would expect maps to be included, to supplement the description of the location and size of the project and to put it into context in terms of the proximity of other offshore developments and infrastructure, coastlines, conservation areas, etc.);
- the aspects of the environment likely to be significantly affected by the project (currently addressed through discussion of the environmental baseline and sensitivities relevant to the project);
- any likely significant effects of the project on the environment resulting from:
 - the physical presence of the development;
 - the production of wastes and relevant emissions, discharges and expected residues;
 - the use of natural resources, in particular soil, land, water and biodiversity;
 - matters set out in Schedule 1 of the EIA Regulations; and
 - the results of any other relevant assessments of the effects on the environment carried out pursuant to EU legislation other than the EIA Directive; and
- where relevant, inclusion of any features or measures envisaged to avoid, prevent or reduce what might otherwise be significant adverse effects on the environment.

3.4.3 Drilling applications

3.4.3.1 Drilling operations

An EIA Direction is required to undertake deep drilling operations, and to support the Well Operations Notification System (WONS) application for consent. Consent is required for all exploration, appraisal or development drilling operations, and the consent applications are determined by the OGA Well Consents Team. The application for an EIA Direction is determined by EMT, and the WONS consent cannot be issued until the application for an EIA Direction has been approved.

Applications for EIA Directions for drilling operations must include a WONS well number, to link the environmental approval and well consenting processes. If the environmental approval is being sought prior to preparation of the application for well consent, a WONS well number can be generated in the application for the EIA Direction, and this number should then be used for all related environmental submissions, including any that are not mediated via the Portal.

The DRA MAT will cover all relevant applications relating to a proposed drilling operation.

3.4.3.2 Side-tracks

When completing an application for an EIA Direction, developers should consider whether there is likely to be a requirement to side-track the well for any reason, and any planned or contingency side-tracks should be included in the application, together with details of any relevant discharges or emissions and potential impacts. Relevant information relating to any side-track should also be included in the applications for other environmental approvals, such as the application for the associated chemical permit. The four most common side-track scenarios are:

- if planned or contingency side-tracks are included in the original applications, they will be covered in the original EIA Direction for the drilling operations;
- if it is decided to side-track to a new geological target during the course of the drilling operation, the original applications should be varied and submitted to the Department, requesting a Post Direction Amendment (PDA) of the original EIA Direction;
- if problems are encountered during the drilling operation and it is necessary to undertake a mechanical side-track, the original applications should be varied and submitted to the Department, requesting a PDA; and
- if it is decided to re-enter an existing well to side-track to a new target, this is treated as a re-drill and new applications, including an application for an EIA Direction, should be submitted to the Department.

Developers should contact the OGA Well Consents Team to confirm the relevant WONS requirements relating to these scenarios.

3.4.3.3 Drilling period

All drilling applications should confirm the proposed spud date for the well and the anticipated duration of the drilling operations. As there may be seasonal differences in environmental sensitivities, the application should allow for reasonable slippage in the drilling schedule and assess the maximum period when drilling activity could take place. For example, if the anticipated spud date is mid-March and the drilling operation is anticipated to take 60 days, it is prudent to assess potential impacts during the period March to June, to avoid having to request a PDA or variations of other environmental approvals if the spud date is brought forward or delayed. If there are changes that have not been accommodated in the original applications, applications to vary the relevant approvals should be submitted as soon as possible, to ensure that issue of the necessary approvals does not delay the proposed operations.

If the spud date is amended prior to issue of the EIA Direction, the Department should be advised by email (emt@beis.gov.uk), so that, if necessary, the Department can adjust the consultation and sign-off priorities. If the spud date is amended following issue of the EIA

Direction, to the extent that commencement or completion of the operations is likely to be outside the period that has been assessed in the application, the applicant must amend the application and seek a PDA.

3.4.3.4 Physical impacts

Where a well is to be drilled using a Mobile Drilling Unit (MoDU), the impact of the physical presence of the rig must be assessed. This will be particularly relevant in terms of impacts on other users of the sea, and it is therefore important that navigational and fisheries implications are addressed in the EIA submission. In exceptional circumstances, if a well is being drilled close to shore, there may also be amenity and visual landscape implications. In the case of wells being drilled using a jack-up MoDU there may also be a requirement to deposit rock at the proposed spud can locations to form a stable substrate to support the legs of the MoDU, or to deposit rock around the spud cans following location of the MoDU to prevent scour. In both cases this will require an application for a separate EIA Direction to cover the deposits, and the assessment will need to consider the impact of the proposed deposits. The separate EIA Direction is an administrative requirement to cater for applications being submitted at different times and the different return requirements, and the separate Directions for the drilling operation and the associated deposits will form part of the overall EIA approval for the deep drilling operation. This can be particularly important where the MoDU is operating in an area where the seabed sediment forms part of a protected habitat, e.g. a sandbank or a reef. In the case of wells being drilled using an anchored semi-submersible MoDU, the anchors will often be located a considerable distance from the MoDU location (mooring arrays extending up to 1.5 km are quite normal) and the assessment will need to consider the impact of the anchors and the chains and cables connecting the anchors to the MoDU.

Where there is an exceptional requirement to deposit rock for the stabilisation of a jack-up MoDU prior to its arrival at the drilling location, an application for an EIA Direction to cover the rock deposits can be submitted prior to creating the application for an EIA Direction to cover the drilling operation. Where there is an exceptional requirement to locate anchors prior to the arrival of a MoDU, an application for a Consent to Locate for the anchors can be submitted under Part 4A of the Energy Act 2008, and the consent can then be varied to cover the subsequent location of the MoDU.

3.4.3.5 Discharges and Emissions

The potential impact of all planned discharges and emissions, including any contingencies, must be included in the application for an EIA Direction. The most significant discharge will be the drill cuttings and associated drilling fluids, and it may be necessary to model the discharge to confirm the likely area of impact, particularly in areas where there has been no previous drilling activity. The most significant emission will be related to power generation, but the scale of these emissions will be small compared with routine power generation emissions from fixed production installations and a detailed assessment will not be necessary.

In addition to the planned and contingency operational discharges, it is sometimes necessary to undertake unscheduled discharges, and applicants can include provision for certain categories of these discharges in relevant environmental applications or in subsequent variations of those applications. The most commonly requested categories of unscheduled discharge are:

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- discharges of materials following cancelled operations - the most common example is the discharge of mixed batches of cement that cannot be used;
 - discharge of prepared fluids that cannot be used – the most common examples are unsuitable drilling fluids, such as ‘kill mud’, fluids containing lost circulation material (LCM) and fluids with the wrong (under-balanced) density; and
 - in exceptional cases, fluids that have been accidentally released from containment but retained on the installation, where they can no longer be used offshore and discharge is now the preferred option.

As these are not operational discharges, the EIA must additionally demonstrate that the discharges would represent the Best Practicable Environmental Option (BPEO), and the worst-case discharges must be separately risk assessed to support any related environmental applications (e.g. the chemical permit application). Providing the EIA and risk assessment are accepted, potential unscheduled discharges can then be approved as part of the initial assessment process covering the drilling operations or approved as the need arises during the course of the drilling operations.

All environmental approvals covering unscheduled discharges will be subject to the following conditions:

- all discharge operations must be undertaken at the site of the drilling activity, and approval will not be given for disposal in transit to another location;
- the developer is required to notify EMT by email to emt@beis.gov.uk in advance of the discharge operations; and
- the developer is required to confirm the exact composition and size of the discharge by email to emt@beis.gov.uk within two working days of submission of the notification.

Further information about making provision for unscheduled discharge operations can be obtained by contacting EMT prior to the submission of applications for proposed drilling operations, or if a need arises during the course of a drilling operation. Further guidance on unscheduled discharges can be found at:

<https://www.gov.uk/guidance/oil-and-gas-offshore-environmental-legislation#the-offshore-chemicals-regulations-2002-as-amended>

3.4.3.6 Extended well tests

A separate application for an EIA Direction is required if the proposed well operations include undertaking an EWT, to underpin the necessary consent from the OGA. Consent is usually required for any test of an exploration or appraisal well undertaken using a MoDU that is scheduled to last for longer than 96 hours and/or involves the production of more than 2,000 tonnes of liquid hydrocarbons. However, a lot will depend on the precise nature and phasing of the test, and the OGA should always be consulted to confirm whether a separate consent is required. An application for an EIA Direction for an EWT, which can again be submitted alongside other applications relating to the proposed drilling operation, will only be required if the OGA confirms that a separate consent is required. Other well testing operations, including drill stem tests (DSTs) and any testing and flaring associated with the well clean-up and completion operations will still need to be assessed, but they would be covered by the EIA Direction for the drilling operation and would not require a separate EIA Direction.

3.4.3.7 Vertical seismic profiles

Where a vertical seismic profile (VSP) survey is to be undertaken, details of the work programme and potential environmental impacts should be included in the EIA submission, although the seismic operations will have to be the subject of a separate application seeking a geological survey consent under the Offshore Petroleum Activities (Conservation of Habitats) Regulations 2001 (as amended). That application can be submitted alongside the application for the EIA Direction for the drilling operation.

3.4.4 Pipeline applications

3.4.4.1 Pipeline operations

An ES is mandatory for pipelines that are greater than 40 km in length and 800 mm in diameter, or for any extension of an existing pipeline where the extension itself exceeds those thresholds. For all other pipeline works requiring a PWA or a PWA variation the developer can submit an application for an EIA Direction to confirm that an ES is not required, although developers can elect to submit an ES for large pipeline systems that do not meet the thresholds and in some cases developers will also include small pipeline systems in the ES for a new field development.

Where an ES is not required, or in cases where an ES has been submitted for a new development and has been approved but the pipeline components then require separate authorisation, an EIA Direction is required to support the application for a PWA. The EIA Direction application is determined by EMT, and the OGA cannot issue the PWA until the EIA Direction application has been approved.

The PLA MAT will cover all applications relating to proposed pipeline operations, including the application to construct or augment a pipeline.

3.4.4.2 Physical impacts

Where a pipeline is to be installed, the physical impact of the proposals will obviously be the most important factor to be assessed, and could include:

- route preparation operations which could include levelling using a dredger;
- trenching operations, either prior to or during pipeline installation operations;
- pipeline installation operations, including navigational aspects relating to vessel interactions;
- pipeline protection operations, including burial in a trench or the deployment of protective materials such as grout bags, mattresses or rock;
- related infrastructure installation operations covered by the PWA, which could include T or Y pieces, manifolds or valves that require additional support or protection;
- pipeline or cable crossings that require additional support or protection; and
- the continued presence of the pipeline system which could interfere with future fishing operations.

The application for an EIA Direction should therefore address all potential physical impacts, which could be particularly important if the pipeline is being installed in an area where it could impact a protected seabed habitat such as a biogenic reef. If any of the related infrastructure is going to be piled, instead of using gravity structures, this can also

be particularly important if the pipeline is being installed in an area where it could impact protected marine mammals.

The deposit of support or protection materials requires the approval of the OGA, and proposals must be detailed in a DepCon submitted in support of a relevant PWA application or an existing PWA. It is also necessary to submit a separate application for an EIA Direction to cover the deposits (unless it is an excluded activity – see Section 2.2.2), and the assessment will need to consider the impact of the proposed deposits. The separate EIA Direction is an administrative requirement to cater for applications being submitted at different times and the different return requirements, and the separate Directions for the pipeline operations and the associated deposits will form part of the overall EIA approval for the pipeline operations.

Where deposits are required in advance of a PWA application or the OGA confirms that they do not require to be approved under the PWA / DepCon process, the deposits cannot be approved using the EIA Direction process and the developer should contact the Department to confirm the environmental approval requirements. In most cases, it is likely that the deposits will have to be the subject of a marine licence application. It is also likely that a marine licence will be required for deposits relating to pipelines during the course of decommissioning operations.

3.4.4.3 Non-biodegradable ‘plastic’ materials

There are a number of pipeline support and protection options where some of the components are non-biodegradable ‘plastic’ materials. Typical examples are:

- Artificial seaweed frond mattresses to encourage the deposition of seabed sediment;
- 25 kg or similar capacity woven sacks made using ‘plastic’ materials that contain grout or sand;
- one or two tonne bulk bags made using ‘plastic’ materials that contain loose rock or smaller sacks of grout or sand;
- concrete mattresses where the individual block units are connected using ‘plastic’ ropes; and
- large rock ‘filter units’ (RFUs) that consist of ‘plastic’ nets filled with broken rock.

Where developers propose to use these materials, in addition to providing an assessment of the potential environmental impacts of the deposits they must also confirm the removal philosophy and that the intention is to recover the deposits at the time of decommissioning.

It should be noted that the Department will expect the small bags for grout or sand to be made using biodegradable material, and will continue to include this as a condition of the Direction if an acceptable case is not presented for the use of non-biodegradable materials. It should also be noted that the Department is unlikely to approve the deposit of one or two tonne bulk bags outside a 500 m safety zone established around a well or fixed installation, and would only be likely to approve the use of RFUs outside a safety zone where it could be demonstrated that the contoured nature of the deposits to support or protect structures, or to remediate pipeline freespan, would not interfere with fishing operations.

3.4.5 Production applications

3.4.5.1 Production operations

An ES is mandatory for all new field developments that will produce >500 tonnes of oil per day and/or >500,000 m³ of gas per day, or for increases in production that exceed these thresholds. Following determination of the ES, EIA Directions are required to commence production operations or to commence production at the increased level.

An EIA Direction is required to support applications for new or amended production consents where the levels of production or the levels of the increase in production are less than the EIA thresholds.

The ES or application for the EIA Direction is determined by EMT, and the OGA cannot issue the requested production consent until the relevant submissions have been approved by EMT.

The PRA MAT can be used to cover all EIA Direction applications relating to proposed production facilities and operations.

3.4.5.2 Commencement of production

An EIA Direction is required to start production operations, irrespective of whether the development was the subject of an ES. The information required to support the application will essentially be a summary of the information included in the ES for the proposed development, or a similar new submission if the production levels were less than the thresholds and an ES was not required. It should contain all the relevant production information related to the field, outlining any changes subsequent to the determination of the ES (if relevant). The submission should also include a brief description of the facilities and proposed operations, and any relevant environmental impacts, so that it can then support all future production-related environmental applications (see section 3.5).

3.4.5.3 Increase in production

An EIA Direction is also required to cover increases in production, again irrespective of whether the increase was the subject of an ES. The information required to support the application will essentially be a summary of the production increase information included in the ES, or a similar new submission if the increase in production levels were less than the thresholds and an ES was not required. It should contain all the relevant production information related to the field, outlining any changes subsequent to the determination of the ES (if relevant), and should briefly discuss all the environmental impacts related to the proposed increase in production. Appendix A details the methodology that can be used to determine the appropriate EIA requirements, i.e. whether an ES is required.

3.4.5.4 Establishment of a surface installation

Developers wishing to vary an existing consent relating to a development to establish an additional surface installation for the extraction of petroleum or the storage of gas or CO₂ have previously opted to prepare an ES in support of the proposals. This has usually been appropriate, as the additional installation has been established to enhance production and there has been accompanying increases in emissions and discharges that have exacerbated the environmental impact. However, strict legal interpretation of the Directive requirements confirms that a screening assessment can be used to determine whether an

ES is required. A new EIA Direction application process will therefore be developed to cover the establishment of any surface installation, to cover the environmental impacts specifically related to the establishment process. Further guidance will be provided when the application process is ready for roll-out via the UK Energy Portal.

3.4.6 Updates and variations

It is recognised that, for a variety of reasons, it may be necessary to amend environmental applications, either before the relevant applications have been determined or following issue of the requested environmental approvals. The changes may be required to amend the proposed operations before they commence, or to amend the operations during their execution. For example, in the case of drilling operations, it may be necessary to change the proposed timing of the operations, the proposed MoDU, the well design, the use and discharge of chemicals, etc.

Any change following the submission of an application but before the issue of the relevant determination, including any change to an application prior to the issue of an EIA Direction, is termed an update, and any number of updates can be submitted up until the point when the developer is locked out of the system as the Department has started the process of issuing its determination.

Any change following issue of an environmental approval is termed a variation (as previously indicated, in the case of EIA Directions the variation is called a PDA). Following submission of an application for a variation, any necessary updates can again be submitted at any time up until the point when the system is locked as the Department has started the process of issuing its determination.

In all cases the holder of the environmental approval must notify changes before the relevant activity is undertaken and provide details of the changes and the likely impact of the changes. Changes cannot be made retrospectively, but in exceptional cases the developer can notify urgent changes by email and the Department can issue the environmental approval by email, providing a formal application is submitted to the Department via PETS within two working days.

3.5 Other Environmental Legislation / Requirements

There are a number of other items of legislation and/or decisions, recommendations and agreements that are relevant to the overall EIA process, although in some cases there will also be a requirement for separate permits, consents, etc. Brief details of some of the relevant legislation and other requirements are provided below. Further information in relation to the legislation, other legislative requirements and related guidance can be found on the GOV.UK website at:

<https://www.gov.uk/guidance/oil-and-gas-offshore-environmental-legislation>,

<https://www.gov.uk/guidance/oil-and-gas-offshore-emergency-response-legislation> and

<http://www.hse.gov.uk/osdr/guidance/oil-pollution.htm>.

3.5.1 The Offshore Petroleum Activities (Conservation of Habitats) Regulations 2001 (as amended)

It is expected that all EIAs should:

- identify any areas designated for protection under the Habitats Directive or Wild Birds Directive;
- determine the likely impacts on the relevant features and whether there is likely to be a significant effect on site integrity;
- identify any proposed mitigation to prevent significant adverse effects; and
- identify measures to be implemented to manage the proposed mitigation and any other commitments designed to reduce or eliminate the potential environmental impacts.

Relevant information should be included in the ES or the application for the EIA Direction, supported by the results of any survey work undertaken to substantiate the conclusions of the assessment or to determine whether there are any potential Annex I habitats or Annex II species present in the area that are likely to be affected by the project. If the proposals are likely to have a significant effect on a protected habitat or species, whether as a result of operational activities or due to an unintentional incident or accident, this should be documented in the EIA submission and sufficient information should be provided to inform any HRA which may be undertaken by the Department.

3.5.2 The Offshore Chemicals Regulations 2002 (as amended)

These regulations implement OSPAR Decision 2000/2 (as amended) and a number of subsidiary OSPAR Recommendations and Agreements relating to the adoption of a harmonised mandatory control system for the use and discharge of offshore chemicals. All activities that involve the use and/or discharge of chemicals during the course of offshore operations require a chemical permit issued under the regulations, and any discharges of the chemicals are a potential source of environmental impact that must be included in the ES or application for an EIA Direction. It is recognised that details of specific chemical use and discharge may not be available at the time that an ES is prepared and that it may therefore be necessary to discuss potential alternatives or a generic suite of chemicals. However, full details and a more detailed impact assessment must be provided to support the subsequent production chemicals permit application, which will then be subject to a 28-day public notice procedure to supplement the public notice undertaken for the ES.

3.5.3 The Offshore Petroleum Activities (Oil Pollution Prevention and Control) Regulations 2005 (as amended)

These regulations replaced the Prevention of Oil Pollution Act 1971 with respect to offshore oil and gas operations, and implement OSPAR Recommendation 2001/1 and a number of related OSPAR Recommendations and Agreements relating to the management of produced water from offshore installations and other discharges of 'oil'. The base case for new developments is that there should be no discharge of oil in produced water and any deviation from this position must be justified. Where there are discharges of oil in produced water or from any other sources, they must be the subject of an oil discharge permit issued under the regulations, and any discharges of hydrocarbons are a potential source of environmental impact that must be included in the ES or the application for an EIA Direction. Developers must therefore identify all planned oil

discharges to relevant waters, and the Department encourages early engagement to discuss produced water management and potential hydrocarbon discharges prior to the submission of ESs for new developments. It is recognised that information relating to specific hydrocarbon discharges may not be available at the time that an ES is prepared and full details and a more detailed impact assessment must be provided to support the subsequent oil discharge permit application, which will then be subject to a 28-day public notice procedure to supplement the public notice undertaken for the ES.

3.5.4 The Offshore Combustion Installations (Prevention and Control of Pollution) Regulations 2013 (as amended)

These regulations transpose relevant provisions of IED with respect to the control of atmospheric emissions of specific pollutants from combustion equipment on offshore installations with an aggregated thermal capacity of ≥ 50 megawatts (MW). All ESs and applications for EIA Directions must include consideration of the nature, scale and impact of all atmospheric emissions, including emissions from flaring, venting, combustion equipment and fugitives, but in the case of offshore installations that meet or exceed the aggregated capacity threshold of 50 MW there will be an additional requirement to seek an atmospheric emissions permit (commonly called an IED or PPC permit) for the emissions from the combustion equipment. In addition to discussing the potential impacts of atmospheric emissions, an ES for a new development would be expected to include relevant information relating to the main characteristics of the proposed combustion equipment, potential energy demand and use, and the nature and quantity of the materials and natural resources used. Full details of the proposals and a more detailed assessment, including a Best Available Technique (BAT) assessment, must be provided in the subsequent permit application, which may then be subject to a supplementary public notice procedure. In such cases, developers are therefore encouraged to seek early engagement with the Department to discuss the ES and permitting processes and the selection of combustion equipment with acceptable emissions profiles.

3.5.5 The Greenhouse Gas Emissions Trading Scheme Regulations 2012 (as amended)

These regulations transpose the relevant provisions of the EU Emissions Trading Directive with respect to atmospheric emissions of specific greenhouse gases from combustion equipment on offshore installations with an aggregated thermal capacity of ≥ 20 MW. In the case of offshore installations, the only greenhouse gas currently covered by the regulations is CO₂ but the regulations apply to emissions from both combustion equipment and flaring. Again all ESs and applications for EIA Directions would be expected to include consideration of these emissions, but more information would be required in relation to the monitoring and calculation of emissions in the subsequent permit application.

3.5.6 The Marine and Coastal Access Act 2009

3.5.6.1 Marine planning

The Marine and Coastal Access Act 2009 (MCAA) introduced measures to deliver the Government's vision of "clean, healthy, safe, productive and biologically diverse oceans and seas" for the whole of the UK, and included the introduction of a marine planning system, comprising the UK Marine Policy Statement (MPS), which was adopted in March 2011, and the subsequent production of marine plans.

Marine plans seek to provide greater coherence of policy and a forward-looking, proactive and spatial approach to the management of the marine area, its resources and the activities and interactions that take place within the area, to ensure a sustainable future for our seas. The marine plans contribute to the implementation of the EU Maritime Spatial Planning Directive (Directive 2014/89/EU), which requires marine plans to be completed by 31 March 2021.

Further information and guidance on marine planning can be found at:

<https://www.gov.uk/guidance/oil-and-gas-offshore-environmental-legislation#the-offshore-chemicals-regulations-2002-as-amended>

Marine plans are national or regional scale strategic plans with a long-term (20 years) view of potential activities, but they do not seek to address site or project-specific details. Marine planning is currently being developed via regional plans in England, with a total of eleven plans completed or in preparation, namely the East Inshore and Offshore Marine Plans, South Inshore and Offshore Marine Plans, North East Inshore and Offshore Marine Plans, North West Inshore and Offshore Marine Plans, South West Inshore and Offshore Marine Plans and the South East Inshore Marine Plan. The Welsh, Scottish and Northern Irish DAs are currently developing national plans, and Scotland's national plan will be supplemented by eleven regional plans.

3.5.6.2 Marine licensing

Offshore oil and gas exploration and exploitation operations controlled under the Petroleum Act 1998 and offshore gas unloading and storage operations controlled under the Energy Act 2008 are specifically excluded from the marine licensing provisions under Part 4 of MCAA. These excluded activities are subject to a separate environmental regulatory regime underpinned by the EIA Regulations. Activities not specifically excluded from the licensing provisions or exempted under the Marine Licensing (Exempted Activities) Order 2011 must be the subject of a marine licence issued by the Department, unless the proposals fall to be regulated by the DAs. Activities that may require a licence can include:

- disturbance of the sea bed, e.g. to access platform legs or to relocate cuttings piles, during decommissioning operations;
- trenching operations that are not covered by a PWA issued under the Petroleum Act;
- temporary deposits, e.g. during pipeline or decommissioning operations that cannot be authorised under the Petroleum Act or Energy Act, such as temporary deposits outside the working corridor during pipeline operations or temporary deposits prior to the approval of the decommissioning programme;

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- the deposit or removal of certain cables, e.g. telecommunications, power or control cables not covered by a PWA;
 - the deposit of substances or objects, e.g. rock dumping, mattress emplacement or burial operations that are not covered by a PWA;
 - the removal of substances or objects from the seabed, e.g. the removal of platforms or other infrastructure during decommissioning operations; and
 - the deposit and use of explosives, e.g. to remove seabed obstructions, to sever wellheads or to remove other infrastructure during decommissioning operations (NB the use of explosives for a seismic survey would be covered separately under the Department's survey consenting regime).

3.5.7 Part II of the Food and Environment Protection Act 1985

The marine licensing provisions of the Food and Environment Protection Act 1985, Part II Deposits in the Sea (FEPA Part II) were replaced by the marine licensing provisions of MCAA for waters adjacent to England, Wales and Northern Ireland, and offshore waters adjacent to Scotland. However, the FEPA Part II licensing provisions have been retained for reserved oil and gas matters in territorial waters adjacent to Scotland (3 - 12 nautical miles), where the Department remains the licensing authority. In Scottish controlled waters (internal waters and 0 - 3 nautical miles in territorial waters, the Scottish Government is the licensing authority, and the Marine (Scotland) Act 2010 is the relevant controlling legislation.

3.5.8 Part 4A of the Energy Act 2008

MCAA amended the Energy Act 2008 to introduce navigational provisions for offshore oil and gas exploration and exploitation operations and offshore gas unloading and storage operations that had been excluded from the marine licensing provisions. Relevant activities that could interfere with navigation must be the subject of a Consent to Locate issued by the Department, and the consenting requirements can include:

- the locating of a MoDU or well intervention vessel;
- the installation of a permanent surface installation;
- the installation of a subsea installation or infrastructure;
- the installation of a subsea pipeline; and
- the deployment of buoys or other marine structures.

Applications are normally submitted to accompany related applications for EIA Directions.

3.5.9 The Merchant Shipping (Oil Pollution Preparedness, Response and Co-operation Convention) Regulations 1998 (as amended)

These regulations implement the International Convention on Oil Pollution Preparedness, Response and Co-operation 1990 and require developers to prepare OPEPs for all offshore oil and gas operations controlled under the Petroleum Act 1998 and offshore gas unloading and storage operations controlled under the Energy Act 2008. It is recommended that the oil spill modelling and impact assessment components of the OPEP are merged with the new EIA Directive requirement to consider the potential impact of accidents and natural disasters, and that a single assessment document is prepared covering the EIA, OPEP and OSD requirements. Where developers opt to prepare a

single assessment document, this could be phased-in to coincide with the preparation or review of OPEPs and OSD submissions.

3.5.10 OSPAR Recommendation 2003/5 – Environmental Management Systems

There are a total of 85 OSPAR Decisions, Recommendations and Agreements relevant to the offshore sector that can be accessed via the OSPAR website at:

<https://www.ospar.org/work-areas/oic>

One Recommendation that is particularly relevant to the EIA process is OSPAR Recommendation 2003/5 to Promote the Use and Implementation of Environmental Management Systems by the Offshore Industry. This requires that all operators controlling the operation of offshore installations on the UKCS should have in place an independently verified Environmental Management System (EMS) that meets the requirements of the Recommendation and the Department's associated guidance.

Developers are expected to include reference to their EMS within EIA submissions, or their Safety and Environmental Management System (SEMS) if they have a combined system, confirming that the proposed operations fall within the scope of their system. Developers should also provide a brief outline of how the delivery of any commitments included within the ES are to be tracked, and may also wish to include links to their EMS or SEMS, or to previous EMS public statements published in accordance with the OSPAR Recommendation requirements on their website or the GOV.UK website.

Where developers do not currently hold an EMS or SEMS that meets the OSPAR Recommendation requirements, the ES should provide details of the company's environmental policy and the systems and procedures that are used to manage environmental aspects and impacts. They must also provide a commitment to comply with the Recommendation and Departmental guidance prior to commencing offshore operations, and this will be checked at the application for the EIA Direction stage prior to issuing any of the relevant environmental approvals.

An EMS or SEMS must be maintained for the lifetime of the project and a mechanism put in place for its periodic review in the light of experience and technological advances. Responsibility for the control, management, mitigation or review of potential impacts should also be provided for in EIA submissions, outlining how this will be achieved.

3.6 Survey Requirements

3.6.1 Baseline surveys

For projects that require a mandatory ES, there is a presumption that the ES will reference recently-obtained site-specific environmental data, and a summary of the results of the surveys will be presented in the ES. The only category of ESs that would not be routinely expected to include relevant baseline data would be ESs submitted solely to support a requested increase in production. For projects that do not require a mandatory ES, including applications for EIA Directions, there is also an expectation that the submissions will include recent and relevant environmental data. Submissions that are not supported by recent or relevant baseline environmental data will have to include a robust, evidence-based case as to why a baseline survey was considered to be unnecessary.

Developers will usually seek advice from environmental consultants to determine whether existing environmental information is likely to be sufficient, or whether a new survey should be undertaken. If there is any doubt, it is recommended that developers should consult the Department and relevant environmental bodies to discuss whether available data is sufficient or a new baseline environmental survey is required (environmental bodies normally recommend a new survey if the available data is more than five years old, but there is flexibility and case-by-case consultation is recommended). If a submission is received that is not supported by adequate or appropriate environmental data and the Department or relevant consultees consider that survey data is necessary to support the impact assessment, there is a risk of a significant delay if the determination is put on hold until the developer obtains the necessary data. Alternatively, if the Department or relevant consultees consider that survey data is necessary to support future impact assessment studies, the Department may include a survey requirement as a condition of the relevant determination.

It should be noted that copies of cited survey reports may be requested by the Department or relevant consultees, and that 'raw' survey data should be retained as it may be requested by bodies such as Marine Scotland. It is also normal procedure to submit all benthic infauna data to UK Benthos.

3.6.2 Site-specific surveys

Site-specific surveys will usually cover a smaller area than a baseline environmental survey, and the area surveyed will be aligned with the area that is anticipated to be impacted by the project. Where site-specific environmental data is available, it should always be included in submissions to supplement the wider-area generic data. Site-specific data should always be recent, and evidence should be presented within the submission to confirm that it is still relevant. Where data is considered to be out of date or the environment may have changed since the last survey, consideration should be given to collecting new data. If new surveys are undertaken, the survey design should allow comparison with existing historical data, in order to determine the extent of any changes that have taken place and, if possible, to identify the causes of such changes.

As indicated above, if the Department or relevant consultees consider that the available site-specific data is out of date, or that a further survey is required to assess the impact of the current or proposed activities, the developer will be advised of the requirement and the Department may insist upon a new survey prior to determination of a submission or include a survey requirement as a condition of the relevant determination.

3.6.3 Intelligent surveys

When investigating any area in relation to a project, it is always recommended that an 'intelligent surveying' approach is used, whereby information gained using non-invasive geophysical techniques, such as multi-beam echosounder and side-survey sonar, is used to design the additional survey requirements. For example, photographic survey methods may be appropriate for hard substrates or highly reflective areas that could be indicative of some sort of reef, and grab sampling locations in areas of soft seabed could be selected based on apparent changes in the nature of the sediment.

Where anomalies are identified during a survey the Department would always recommend that they should be investigated further using non-invasive methods to demonstrate whether there are any potential Annex I habitats. This is particularly important in areas

where there are known pockmarks or in areas which could support biogenic reefs, such as *Sabellaria spinulosa* reefs.

Where pockmarks are identified, further studies should be undertaken to determine whether they contain MDAC structures, which could qualify as submarine structure made by leaking gases. Where biogenic reef forming organisms are identified, further studies should be undertaken to confirm the extent and form of the organisms, and whether they are only present in discrete patches or form part of a larger complex that could qualify as a biogenic reef.

Where the project is in an area of any potential Annex I habitat, photographic evidence should then be included in the survey report and ES to confirm whether any Annex I habitat was identified. It is also appropriate to include a diagram showing the location of the habitat in relation to the project and any associated infrastructure (including anchor patterns if there are any mobile installation operations).

Further guidance in relation to survey operations can be obtained from the Department and bodies such as SNCBs. In areas where Annex 1 habitat is expected, the Department would recommend that the scope of the survey is discussed with the relevant SNCB prior to the survey being undertaken.

Further information in relation to Marine Protected Areas, including marine survey operations, can be found on the JNCC website at:

<http://jncc.defra.gov.uk/page-4524>

For further information in relation to *Sabellaria spinulosa* reefs, developers should refer to JNCC report No. 405, "Defining and managing *Sabellaria spinulosa* reefs"; and for further information in relation to stony reefs developers should refer to JNCC report No.432, "The identification of the main characteristics of stony reef". The reports can be found at:

http://jncc.defra.gov.uk/pdf/405_web.pdf and

<http://jncc.defra.gov.uk/pdf/web432.pdf>

4 Offshore Gas Unloading and Storage and Carbon Dioxide Storage

4.1 Licences and Consents

Part 1, Chapter 2 of the Energy Act 2008 makes provision for a licensing and enforcement regime for gas importation and storage, and Part 1, Chapter 3 makes similar provision for the storage of carbon dioxide. Regulations made under the Act - the Offshore Gas Storage and Unloading (Licensing) Regulations 2009 and the Storage of Carbon Dioxide (Licensing etc.) Regulations 2010 - regulate gas unloading and storage (GUS) and carbon dioxide storage (commonly referred to as CCS) respectively, and set out requirements for making applications and prescribing model clauses for the licences.

The OGA are the licensing authority for offshore GUS and the offshore elements of CCS, except in relation to CO₂ storage proposals totally confined to internal waters or the territorial sea adjacent to Scotland, where the functions are devolved to the Scottish Ministers. The OGA is also responsible for the issue of activity specific consents relating to GUS and CCS operations, including:

- consent for the deep drilling of a well or borehole for the purposes of, or in connection with GUS or CCS;
- consent for the use of a mobile installation for the purpose of carrying out test injections of combustible gas or CO₂;
- consent for any combustible gas or CO₂ storage development plan; and
- consent (a PWA) for the construction of a pipeline for the conveyance of combustible gas or CO₂ for the purpose of storage.

A Crown Estate Lease is also required for the area or volume to be used for combustible gas or CO₂ storage.

Further information on the licensing of gas unloading and storage and CO₂ storage can be found on the OGA website at:

<https://www.ogauthority.co.uk/licensing-consents/gas-storage-and-unloading/> and

<https://www.ogauthority.co.uk/licensing-consents/carbon-storage/>

4.2 Environmental Regulation

The amended EIA Regulations apply directly to GUS and CCS activities. The Energy Act 2008 (Consequential Modifications) (Offshore Environmental Protection) Order 2010 (as amended) also apply the provisions of the following regulations to GUS and CCS activities:

- the Offshore Marine Conservation (Natural Habitats, & c.) Regulations 2007 (as amended);
- the Offshore Chemicals Regulations 2002 (as amended);
- the Offshore Petroleum Activities (Oil Pollution Prevention and Control) Regulations 2005 (as amended);
- the Offshore Installations (Emergency Pollution Control) Regulations 2002; and
- the REACH Enforcement Regulations 2008.

The EIA Regulations have also been amended so that they apply to GUS and CCS activities, and a requirement for the SoS's agreement therefore applies to relevant GUS and CCS consenting processes. The ES and EIA Direction processes should therefore mirror those detailed for offshore oil and gas activities (see Section 3).

5 Submission, Consultation and Review

5.1 Environmental Statements

5.1.1 Submission to the Department

5.1.1.1 Acquiring the unique Environmental Statement reference number

All ES projects must be allocated a unique identification number that has to be included in the ES and any correspondence relating to the ES. Developers should contact EMT (normally by email) to request an identification number, providing a brief outline of the project, its location and the likely ES submission date.

Environmental Management Team
Offshore Petroleum Regulator for Environment & Decommissioning
Department for Business, Energy and Industrial Strategy
2nd Floor, Wing C, AB1 Building
Crimon Place
Aberdeen AB10 1BJ
Tel: 01224 254079 or 254040
Email: EMT@beis.gov.uk

5.1.1.2 Submitting the ES

When the ES is completed, two hard copies and an electronic copy of the ES must be submitted to EMT. Previous practice was to require the submission of a PON16 notification to the Department, to accompany the ES. This has now been discontinued, and replaced by a requirement to submit a letter of application for consent. The letter of application is a concise summary of the formal application for consent made to the OGA. The letter template has been developed collaboratively between the OGA and OPRED to facilitate meeting the requirements of the Regulations while ensuring the confidential aspects of the formal application are not compromised. To meet the requirements of the Regulations, the ES submission and the public notice documentation must be accompanied by the letter of application for consent.

5.1.2 Acknowledgement by the Department

Following receipt of the ES the Department will issue a letter of acknowledgment (quoting the unique reference number allocated to the project) that includes details of the authorities likely to have an interest in the project and the public notice requirements. The letter will also confirm that notification of receipt of the ES will be placed on the GOV.UK website, and require the developer to place a copy of the ES and the public notice on its company website. If the developer cannot place copies of the documents on its website, it should advise the Department immediately, so that alternative arrangements can be discussed to provide access to the documents.

The letter will list the authorities likely to have an interest in the relevant project, either because of their particular environmental responsibilities or their local or regional competence, and require the developer to serve on each authority a copy of the Department's notice, a copy of the application for consent submitted to the OGA and a copy of the ES. The developer must also confirm the arrangement for making a representation about the project and the date by which representations should be

submitted to the Department, which must be a minimum of 30 days after the date on which the documents were served on the identified authorities.

5.1.3 Public notice and consultation

The acknowledgement letter will also provide details of the public notice requirements, confirming that a public notice must be published in appropriate newspapers and on such occasions so as to come to the attention of those likely to be interested in or affected by the relevant project. As a minimum, the advertisements must be published in a newspaper with national circulation and, wherever possible, in a newspaper with local circulation in the area adjacent to the relevant project, to ensure that it comes to the attention of any persons likely to be interested in, or affected by, the relevant project. The public notice must describe the application and state that it is accompanied by an ES that will be subject to an assessment procedure. The public notice must also provide details of where a copy of the ES can be inspected or obtained. Developers may charge a fee not exceeding £2 for the provision of a copy of the ES, but where it is intended to charge such a fee this must be stated in the public notice. If a copy of the ES is requested, it should be supplied as soon as reasonably practicable after receipt of the request.

The public notice must additionally confirm the arrangements for making representations concerning the proposals to the Department. This deadline for submission of representations must be not be less than 30 days after the date of publication of the last public notice. The public notice must also detail the decisions that are available to the Department in response to the application, and confirm that any person aggrieved by the Department's decision can appeal to the court to quash the decision (see Section 7 for further details).

To further ensure that the consultation process is as comprehensive as possible, the public notice must also be made available on a website accessible to the public, for example the developer's website, together with an electronic copy of the ES and the application for consent. The Department will additionally publish notification of submission of an ES on the GOV.UK website.

Developers should not try to initiate a public notice process prior to submission of the ES and/or receipt of the acknowledgement letter, as it is likely that the Department will either request a new public notice or require the developer to notify an extension of the deadline for receipt of representations.

Following initiation of the consultation and public notice, the developer is required to provide:

- notification of every authority that has been served notice of the proposals and the date that this took place;
- hard or scanned copies of the relevant newspapers in which the public notices appeared, which must include confirmation of the newspaper and the date of the publication; and
- the address of the public website used to provide electronic access to copies of the public notice and the ES,

The required information should be forwarded, by letter or email, to EMT.

5.1.4 Projects affecting other States

Where the Department considers that a relevant project could have a significant effect on the environment of an adjacent State, or where that State considers that its environment is likely to be significantly affected by the project and contacts the Department to request details, the Department will forward a description of the project to the relevant regulatory authority in the State, including details of any potential transboundary impacts, and invite the State to participate in the determination process. If the State subsequently confirms that it would wish to participate in the process, the Department will provide the State with details of the relevant consent application, a copy of the ES and any other relevant information that it holds in relation to the project. A similar reciprocal process will be implemented where the Department receives notification of a project in the waters of an adjacent State that could impact the UK environment.

5.1.5 Review period

There is no statutory timescale for the review of an ES, as the Directive only refers to a reasonable period of time, but the Department will always endeavour to review submissions in a timely manner. The Department will work closely with developers to meet project deadlines and will aim to provide an initial response to developers within eight weeks of expiry of the public notice representation deadline. However, completion of the review process will be dependent on a number of factors including, but not limited to, the quality of the submission, whether the Department or consultees request additional information, environmental sensitivities (including the requirement for further assessment for Special Protection Areas or Special Areas of Conservation) or transboundary issues. These could all result in a longer period of review, and it is therefore good practice to allow a six month period for completion of the review, although in practice it is usually possible to complete the review process within a three to four month period.

5.1.6 Determination

Following the expiry of the public notice, and receipt of comments from the bodies served with a copy of the ES, the Department will undertake its technical review. Where it is necessary to request additional information in response to a specific request or requests or as a consequence of the Department's review, the Department will normally collate the comments and write to the developer to confirm the requirements. Under certain circumstances the Department may write to authorities that have requested additional information to seek more details. If a representation received from an authority requires a detailed response, the Department may also copy the representation to the developer.

The letter from the Department will clearly indicate whether the issues raised are advisory or whether the additional information is required to progress the ES determination. A copy of the letter requesting additional information may also be forwarded to the authorities who raised the original queries. Following receipt of the developer's response, the Department will always take the additional information into consideration when it determines the submission, and will also copy the information to any consultee that specifically requested the information. If the additional information is considered to be material to the Department's decision, it will also require the additional information to be subject to a further public notice.

In cases where there are significant additional information requirements, the Department may request a formal addendum to the original ES, or even suggest that the developer

should prepare a new ES, and the entire review process would have to be repeated. However, these options are only usually necessary if the developer significantly amends the original proposals.

5.1.7 Decision

Once all the issues that were raised during the consultation process or the Department's review have been resolved, the Department will determine whether it is content that the project is unlikely to have a significant impact on the receiving environment, including any sites protected under the Habitats and Wild Birds Directives. As the review process is iterative, and will involve modification of unacceptable elements of the proposals, it is unlikely that the ES would be rejected, but developers should note that this is still a possibility if it is considered that there are significant adverse effects that cannot be mitigated. If the ES is not rejected, the Department will issue a letter to the developer advising that the Department is content with the information provided and there are no environmental objections to the issue of consent for the project, and will notify the OGA of the Department's agreement to the grant of consent. Any conditions attached to the decision, including any agreed changes to the proposals resulting from the review process will be formally recorded in the decision letter.

A notice confirming the Department's decision, in line with requirements detailed in the EIA Regulations, will be published on the GOV.UK website and in the Gazettes. The Department will also notify the OGA of the conclusions of the ES review process, and advise them of any environmental conditions that must be incorporated into any consent issued for the project.

It is recognised that the final design process will often continue after completion of the ES review and the Department's determination. Any changes to the proposals must therefore be reported to the Department, who will advise the developer if further action is necessary. In some cases, the changes will be sufficiently trivial to warrant no further action. In other cases, the Department will advise that the changes should be addressed in an application for an EIA Direction that is required prior to commencement of the project. In exceptional cases, the Department may advise that a new ES will be necessary and the formal review process will have to be repeated.

5.2 Applications for Environmental Impact Assessment Directions

5.2.1 Submission to the Department

Submission of applications for EIA Directions is mediated via PETS. Guidance on the functionality and management of PETS applications can be found at:

[https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/248588/PETS - Industry User Guidance v1_0.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/248588/PETS_-_Industry_User_Guidance_v1_0.pdf)

Where there is doubt as to whether an application for an EIA Direction is necessary, developers should consult the Department for advice.

5.2.2 Consultation, review and determination

All applications for EIA Directions are consulted on, as a minimum involving the relevant SNCB and either the Marine Management Organisation, Marine Scotland, Natural Resources Wales or the Department of Agriculture, Environment and Rural Affairs, depending upon whether the location is in waters adjacent to England, Scotland, Wales or Northern Ireland.

Upon receipt of an application, it will be checked to confirm whether it is complete and consultation will then be initiated via the UK Energy Portal. If the application is deficient, or issues raised during the consultation process need to be addressed, the Department will revert to the developer and request an update to incorporate the additional information.

The amended Directive introduces a new requirement whereby the competent authority should determine applications within 90 days, although in exceptional cases (e.g. where a project is particularly complex, is in a sensitive location or is very large) the deadline can be extended. In such cases, the developer must be informed in writing of the reasons for the extension and the date of when the determination is expected. The Department shall continue to determine applications for EIA Directions as soon as is possible, and intends to maintain the current 28 day notification period. However, if there is a requirement to request an update, this may lengthen the review process. Applicants should therefore submit their applications as early as possible.

5.2.3 Decision

In reaching a decision on whether or not to issue an EIA Direction, any comments received from the consultees will be taken into consideration along with the outcome of the Department's review of the application. Assuming that the information provided is satisfactory, the consultees have raised no objections and the Department is satisfied that the proposals will not result in any significant adverse effects, an EIA Direction will be issued via PETS confirming that a full ES is not required. If the Department is not content and the application is rejected, the Department will advise on the required course of action, including whether it is necessary to prepare an ES.

A notice confirming the Department's decision, in line with requirements detailed in the EIA Regulations, will be published on the GOV.UK website and in the Gazettes. The Department will also notify the OGA of its decision, and advise the OGA of any environmental conditions that must be incorporated into any consent issued for the project.

5.2.4 Additional well sign-off requirements

Additional approval measures have been introduced for the following categories of drilling operations:

- exploration or appraisal wells drilled using a MoDU;
- all wells in waters to the West of Shetland, in the Moray Firth or in the Irish Sea drilled using a MoDU; or
- all High Pressure and High Temperature (HP/HT) wells drilled using a MoDU.

In addition to the EIA Directions required for these wells, there is a senior management sign-off process that requires confirmation that the Department, the HSE and the OGA are satisfied with all the relevant safety and environmental applications and notifications. This process includes confirmation that HSE, EMT, OEI and the OGA are content, and in some

cases OEI will confirm that a pre-spud review and/or inspection is necessary before it can confirm that it is satisfied with the proposals. Pre-spud reviews or inspections can be requested under the following conditions:

- the well operator or drilling contractor is new to the UKCS or it is a new relationship between the two entities;
- the MoDU is new, or it has not recently worked on the UKCS;
- the well is located in a very sensitive area;
- the well is located in deep water (>300 m); or
- the well is HP/HT.

Both the senior management sign-off and the pre-spud review or inspection can significantly delay the approval processes, including determination of the EIA Direction application, and this should therefore be taken into consideration when preparing and submitting relevant applications.

6 Reporting

ES and EIA Direction determinations may contain conditions that require a developer to report specific emissions, discharges, deposits, etc. associated with the proposed activities, and there are also standard reporting requirements included in the conditions of other environmental permits, consents, etc. There may also be a requirement to report information related to excluded projects (see Section 2.2.2).

The conditions attached to the environmental approvals or correspondence relating to relevant exclusions will stipulate the reporting requirements, the timescales for the reporting and the reporting method. In many cases, the reports will have to be submitted using the Environmental Emissions Monitoring System (EEMS). Access to EEMS is restricted to registered users, and developers wishing to access the system for the first time should contact their allocated Environmental Manager if an account has not been created to align with a relevant environmental approval.

7 Enforcement and Penalties

7.1 Application to the Courts by Aggrieved Parties

Parties aggrieved by the Department's decision to agree to the grant of consent or an approval for a project under the EIA Regulations, or the imposition of a relevant requirement under regulation 11 of the EIA Regulations may apply to the Court. The Court may quash the consent if it finds that the Department contravened the regulatory requirements or if the applicant's interests were substantially prejudiced by a failure to comply with any requirement of the Regulations. An aggrieved party must make an application to the Court within six weeks of the date of publication in the gazettes of details of the consent, approval or imposition of the relevant requirement. A developer who commences a consented project before the expiry of the six week period therefore does so accepting the risk that the Court may order that the operations cease, either permanently or until the objections have been resolved.

7.2 Court Orders

If a project is being carried out without the necessary consent or approval of the OGA or otherwise than in accordance with a relevant requirement imposed in accordance with these regulations, a Court Order may be sought to prevent the actions or to compel compliance with a condition. An Order may also be sought requiring the removal of the project and the re-instatement of the site.

7.3 Criminal Offences

It is an offence to intentionally or recklessly submit specified information (e.g. information which is in an ES) which is false or misleading in a material particular, or to intentionally act in breach of a condition attached to a consent or environmental approval, where such a condition is attached for the purposes of reducing or eliminating significant adverse effects, or to carry out an activity without the necessary consent or approval of the OGA or otherwise than in accordance with a relevant requirement imposed in accordance with these regulations.

7.4 Enforcement following issue of an Environmental Impact Assessment Direction

The Department's OEI is responsible for the inspection, investigation and enforcement of the environmental legislation administered by the Department, and will monitor compliance with the requirements of EIA decisions and environmental permits, consents, etc. issued under other regulations. If non-compliances are found then action may be taken in accordance with the Department's enforcement policy. Further details on the Department's Enforcement Policy may be found at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/470442/DECC_Offshore_Inspectorate_Enforcement_Policy_-_October_2015.pdf



Appendix A

Revision and Renewal of Production Consents

A.1 Managing the process

Prior to applying to the OGA to request a consent revision or renewal that involves an increase in the production level, the applicant should assess the proposed increase against the EIA thresholds. The methodology for assessing the proposed increase involves comparing the current consented level of annual production for the field with the requested level of annual production for that field. As the consents are field-based, any aggregated increase for an installation that serves a number of fields will be irrelevant.

The baseline for the comparison will normally be the current consented level of production for the field, i.e. the consented level of production during the calendar year of submission of the request for the consent revision. However, in the case of a prolonged shut down, or the reinstatement of production of a particular hydrocarbon, it may be necessary to use the most recent consented level of production as the baseline, providing this has been agreed with the OGA. The comparative level of production can be the proposed level of production during the current or next calendar year, depending upon when the increase is required, or can be the proposed average annual level of production for the duration of the requested consent. The averaging system could negate the requirement for an ES for a short-term increase in production that exceeds the relevant threshold (e.g. a large increase in the first year after intervention operations, followed by a rapid decline to levels that would reduce the average increase to less than the threshold). However, it would still be necessary to apply for an EIA Direction to cover the initial increase.

The application to the OGA to request a consent revision or renewal is made via the UK Energy Portal, and the requested production levels must be provided in thousand standard m³ / day for liquid hydrocarbons and gas. In order to assess the increase against the EIA thresholds, the liquid hydrocarbon production levels must be converted to tonnes / day. Both units should therefore be included in environmental submissions, so that the liquid hydrocarbon production levels can be compared with the request for the consent revision or renewal, to ensure the applications are aligned, and can also be compared with the EIA thresholds.

If the requested level of the increase, using either direct comparison or the averaging process, exceeds the liquid hydrocarbon and/or gas threshold, this will trigger a requirement for an ES. The preparation and review of an ES will have significant resource requirements and timing implications; as the ES will be subject to a mandatory 30-day Public Notice period and review by statutory consultees. The entire process could, therefore, take a number of months to complete, and it is recommended that the ES should be submitted to the Department at least three months prior to the commencement date of the proposed increase. Pending completion of the environmental approval process, the OGA will, if necessary, consider extending the period of validity of the existing consent at the current level of annual production.

Where a full ES is required, applicants should consider the following:

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- The scope of the ES should be restricted to the potential effects of the proposed increase in production, including details of any production system modifications to accommodate the increase, and it should therefore be possible to produce a “slim-line” ES. This will be particularly relevant if the original development was not the subject of an ES (because the development preceded the EIA Regulations), as there is no intention to request a retrospective ES for the existing facilities or operations. It will also be relevant if the increase in production relates to infill drilling, as it will be necessary to confirm that the increase relates to infill drilling but it will not be necessary to address the impacts relating to the proposed drilling operations.
 - If the original development was the subject of a recent ES, the applicants should have considered previous guidance that, although it is necessary to discuss the anticipated production levels in an ES, it is prudent to extend the assessment to consider any anticipated or potential increases in the production levels, i.e. to base the assessment on the maximum facility capacity. Where that advice has been heeded, it should be possible to further reduce the workload and provide a supplement to the original ES, updating any technical or environmental information relevant to the potential effects of the proposed increase in production. However, it should be noted that if a supplement is provided, it may be necessary to provide a copy of the original ES to support the supplement.
 - If the original development was the subject of a less-recent ES, i.e. one submitted before the issue of the previous production increase guidance, the applicants should check the levels of production assessed in the original ES, as it is possible that the initial production levels were greater than the levels that are the subject of the request for the consent revision (e.g. production levels have declined and an infill drilling programme will result in an increase in the level of production, but the new level of production will still be below the original consented level of production). Where that is the case, it should again be possible to reduce the workload and effectively provide a supplement to the original ES, updating any technical or environmental information relevant to the potential effects of the proposed increase in production, but it may be necessary to provide a copy of the original ES to support the supplement.
 - In all cases, the ES should detail the baseline production levels and the new production levels included in the application to the OGA, and should cover the duration of the requested consent. Where the request relates to liquid hydrocarbons, it should also detail the production levels in standard m³ / day and tonnes / day, so that they can be compared with the EIA thresholds, and should detail the specific gravity information used to convert the data.

If the requested level of the increase, using either direct comparison or the averaging process, is lower than the liquid hydrocarbon and/or gas threshold, there will be a requirement to apply for a EIA Direction to confirm that an ES is not required, i.e. a requirement for an Increase in Production Direction. If the increase relates to a tie-back that does not have a Production Operations MAT, it will be necessary to contact the Department to request an amendment of the PETS facilities / field list to allow the creation of a new Production Operations MAT for the tie-back, that can then be used to support the Production Increase SAT.

Prior to the development of PETS, applications for production increases relating to a tie-back could be requested via a variation of the relevant host installation's PON15D. A

similar option is still available if the host installation and the tie-back are operated by the same company, using the relevant host installation's Production Operations MAT, but that option can no longer be used for tie backs that are operated by a different company. In such cases, it will be necessary to create a new Production Operations MAT for the tie-back to support a Production Increase SAT. In both cases, where the licensees have appointed a third party installation operator for a field, the Production Increase (IP) SAT must be submitted by the relevant appointed operator.

In all cases, it is recommended that the IP SAT should be submitted to the Department at least 28 days prior to the commencement date for the proposed increase. Again, pending completion of the environmental approval process, the OGA will, if necessary, extend the period of validity of the existing consent, at the current level of annual production.

Where an application for an EIA Direction is required, applicants should consider the following:

The scope of the application should be restricted to details of any production system modifications to accommodate the increase in production and the potential effects of the proposed increase, e.g. the effects of any increase in chemical use and/or discharge, any increase in produced water discharges or any increase in atmospheric emissions.

In all cases, the application should detail the baseline production levels and the new production levels included in the application to the OGA, and should cover the duration of the requested consent. Where the request relates to liquid hydrocarbons, it should also detail the production levels in standard m³ / day and tonnes / day, so that they can be compared with the EIA thresholds, and should detail the specific gravity information used to convert the data.

Examples of how to assess the potential EIA requirements for proposed production increases can be found below.

A.2 Assessing EIA requirements for a revision or renewal of production consents

A.2.1 Increase in the level of production

Assessment of the EIA requirements is based upon comparing the current or most recent consented level of annual production for the field (the baseline) with the requested level of annual production for that field. The assessment is always based on the current or most recent consented level, and not based on actual production level. Production consents are field specific, and any aggregated increase for an installation that serves a number of fields will be irrelevant.

If the requested level of production exceeds the relevant baseline, there will be a requirement for an application for an EIA Direction if the level of the increase is below the relevant EIA thresholds (500 tonnes oil per day or 500,000 m³ of gas per day), or an ES if the level of the increase is above the relevant EIA threshold.

In circumstances where a field has not previously been the subject of a production consent for a particular hydrocarbon, but the intention is to start producing that hydrocarbon, the baseline will be zero. If there has been a suspension of production of a particular hydrocarbon and the current consented level of production of that hydrocarbon is zero, or

the production consent for a particular hydrocarbon has expired but the intention is to reinstate production, the baseline will be the most recent consented level of production of that hydrocarbon, providing this strategy is agreed with the OGA.

The comparative level of production can be the proposed level of production during the current or next calendar year, depending upon when the increase is required, or the annual average level of production for the duration of the requested consent. The averaging system could negate the requirement for an ES for a short-term increase in production that exceeds the thresholds. Any proposed increase in production requires an EIA submission, and the averaging methodology can only be used to determine whether the increase requires an EIA Direction or an ES.

Some examples of the application of the assessment methodology for gas production consents are detailed below and overleaf, but the examples would be equally relevant for oil or condensate production. (However, it should be remembered that the EIA threshold for liquid hydrocarbon production uses different units – tonnes per day).

Example 1:

BASELINE			
	Current consent m3/day	Gas applied for m3/day	
2011	1,570,000	3,000,000	
2012		2,700,000	
2013		2,200,000	
2014		1,800,000	
2015		1,500,000	
Average revised consent (2011- 2015)		2,240,000	
Increase in production		670,000	
DIFFERENCE BETWEEN THE BASELINE AND AVERAGE			

There is a projected increase against the baseline for 2011 alone (in addition to years 2012-2014), so there is an EIA requirement. The averaging process for years 2011 – 2015 indicates that the average increase exceeds the 500,000 m³ per day EIA threshold for gas production, so an ES is required.

Example 2:

BASELINE		
	Current consent m3/day	Gas applied for m3/day
2011	1,570,000	3,000,000
2012		2,600,000
2013		1,800,000
2014		1,500,000
2015		1,200,000
Average revised consent (2011- 2015)		2,020,000
Increase in production		450,000
DIFFERENCE BETWEEN THE BASELINE AND AVERAGE		

There is a projected increase against the baseline for 2011 alone (in addition to years 2012 and 2013), so there is an EIA requirement. The averaging process for years 2011 – 2015 indicates that the average increase is below the 500,000 m3/d EIA threshold for gas production, so a Production Operations MAT supporting an Increase in Production (IP) SAT application for an EIA Direction is required.

Example 3:

BASELINE		
	Current consent m3/day	Gas applied for m3/day
2011	1,570,000	3,000,000
2012		1,500,000
2013		1,300,000
2014		1,000,000
2015		900,000
Average revised consent (2011- 2015)		1,540,000
Increase in production		-30,000
DIFFERENCE BETWEEN THE BASELINE AND AVERAGE		

There is a projected increase against the baseline for 2011, so there is an EIA requirement. The averaging process for Years 2011 – 2015 indicates that there is no average increase, but that does not totally negate the EIA requirement as an application for an EIA Direction is required to cover the increase in 2011.

Example 4:

	Current consent m3/day	Gas applied for m3/day
2011	1,570,000	1,570,000
2012	1,500,000	1,300,000
2013	1,200,000	1,400,000
2014	1,000,000	1,100,000
2015		900,000

A yellow box labeled "BASELINE" is positioned above the 2011 row, with an arrow pointing to the 1,570,000 value in the "Current consent" column.

There is a projected increase between 2012 and 2013, but there is no increase against the baseline for 2011. The increase between 2012 and 2013 is therefore irrelevant and there is no EIA requirement.

A.2.2 Extending the duration of a production consent

Extending the duration of a production consent at the same or reduced production levels does not trigger a requirement for an ES or a request for an EIA Direction. However, it will be necessary to update relevant sections of the Production Operations MAT, to amend any references to the consented production data (which should always be included in the Production Operations MAT for all fields covered by the submission), and possibly to amend related EIA data (e.g. chemical use and/or discharge, produced water discharges, atmospheric emissions, etc.). If it is unnecessary to seek a variation of any environmental application as a consequence of extending the duration of the consent, the EIA submission in the Production Operations MAT should still be amended to confirm the extension but it is unnecessary to submit the amendment via PETS until there is a requirement to seek a variation of any relevant environmental application.

Appendix B

ES Submission Information

THE OFFSHORE PETROLEUM PRODUCTION AND PIPE-LINES (ASSESSMENT OF ENVIRONMENTAL EFFECTS) REGULATIONS 1999 (AS AMENDED)

The following information must be provided as a preface to all Environmental Statements (ESs). If you have any queries in relation to the data requirements please contact:

Environmental Management Team
Offshore Petroleum Regulator for Environment and Decommissioning (OPRED)
Department for Business, Energy and Industrial Strategy (BEIS)
2nd Floor, Wing C, AB1 Building
Crimon Place
Aberdeen
AB10 1BJ

Tel: 01224 254079 or 254040

Email: emt@beis.gov.uk

ENVIRONMENTAL STATEMENT DETAILS

Section A: Administrative Information

A1 – Project Reference Number

Please confirm the unique ES identification number for the project.

Number:

A2 - Applicant Contact Details

Company name:

Contact name:

Contact title:

A3 - ES Contact Details (if different from above)

Company name:

Contact name:

Contact title:

A4 - ES Preparation

Please confirm the key expert staff involved in the preparation of the ES:

Name	Company	Title	Relevant Qualifications / Experience

Please extend table if necessary.

A5 - Licence Details

a) Please confirm licence(s) covering proposed activity or activities

Licence number(s):

b) Please confirm licensees and current equity

Licence Number:	
Licensee	Percentage Equity

Please provide a separate table for each relevant licence, and extend the table(s) if necessary.

Section B: Project Information

B1 - Nature of Project

a) Please specify the name of the project.

Name:

b) Please specify the name of the ES (if different from the project name).

Name:

c) Please provide a brief description of the project.

B2 - Project Location

a) Please indicate the offshore location(s) of the main project elements (for pipeline projects please provide information for both the start and end locations).

Quadrant number(s):

Block number(s):

Latitude:

Longitude (W / E):

Distance to nearest UK coastline (km):

Which coast?

England / Wales / Scotland / NI

Distance to nearest international median line (km)

Which line?

UK /


B3 - Previous Applications

If the project, or an element of the project, was the subject of a previous consent application supported by an ES, please provide details of the original project

Name of project:

Date of submission of ES:

Identification number of ES:



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