



Department for
Energy Security
& Net Zero

Environmental Impact Assessment (EIA) – Assessing effects of scope 3 emissions on climate

Draft supplementary guidance for assessing the effects of scope 3 emissions on climate from offshore oil and gas projects



© Crown copyright 2024

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit nationalarchives.gov.uk/doc/open-government-licence/version/3 or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: psi@nationalarchives.gsi.gov.uk.

Where we have identified any third-party copyright information you will need to obtain permission from the copyright holders concerned.

Any enquiries regarding this publication should be sent to us at: finch.qanda@energysecurity.gov.uk

Contents

Introduction	4
Scope of Guidance	5
Expectations on ES content for assessing effects of scope 3 emissions	6
Evaluating significance of the likely effects	8
Consideration of cumulative effects	8
Consideration of alternatives	9
Mitigation Measures	9
Environmental Protection Objectives	10
References	11

Introduction

The Supreme Court concluded in the Finch judgment (“the judgment”), that a decision to grant planning permission for an onshore oil development project (“the Horse Hill Development”) at a site in Surrey was unlawful, because end-use atmospheric emissions from burning the oil produced were not assessed as part of the planning decision (Finch Judgment, 2024).

In Finch, it had been agreed by the parties, including the developer and the local planning authority, that it was inevitable that the oil extracted will be sent to refineries and the refined oil would eventually undergo combustion, producing greenhouse gas (“GHG”) emissions which would have an effect on the climate. It was noted in the judgment that the combustion of oil would fall under Category 11 (Use of sold products) of the GHG Protocol. It was also agreed that general estimates of combustion emissions can be made using methodology such as that described in guidance issued by the Institute of Environmental Management and Assessment (“IEMA”). On that basis, the majority of the Supreme Court held that GHG emissions from the combustion of oil were an effect of the project that had to be assessed in the Environmental Statement (“ES”).

The Environmental Impact Assessment (“EIA”) for the Horse Hill Development was carried out under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. However, the judgment was based on the Court’s interpretation of the requirement in Article 3 of Directive 2011/92/EU of the European Parliament and of the Council, as amended by Directive 2014/52/EU (collectively referred to as “the EIA Directive”) to identify, describe and assess the direct and indirect significant effects of a project.

Offshore oil and gas production projects are subject to the Offshore Oil and Gas Exploration, Production, Unloading and Storage (Environmental Impact Assessment) Regulations 2020 (“the Offshore EIA Regulations”), rather than the regulations in dispute in the Finch judgment. However, the Offshore EIA Regulations were similarly enacted (during the implementation period following the UK’s departure from the European Union) to transpose the EIA Directive, so the Supreme Court’s legal interpretation is relevant for offshore projects. The legal conclusions in the judgment were also based on some agreed or undisputed facts, which may not apply to all projects that are considered under the Offshore EIA Regulations. Nevertheless, the Offshore Petroleum Regulator for Environment and Decommissioning (“OPRED”) when reaching a decision on behalf of the Secretary of State, needs to ensure that the EIA process, as outlined in the Offshore EIA Regulations, is undertaken fairly, robustly and in line with the law as clarified by the judgment.

This supplementary EIA guidance has therefore been produced to provide clarity on EIA expectations when assessing the effects of scope 3 emissions on climate from proposed offshore oil and gas projects seeking development and production consent. This guidance is supplementary to the Offshore EIA Regulations Guidance (OPRED, 2021).

Scope of Guidance

GHG emissions will often be described as scope 1, scope 2 and scope 3 GHG emissions as defined by the GHG Protocol, first published in 2001 (GHG Protocol, 2001). The purpose of the GHG Protocol was to establish a comprehensive global standardised framework for companies and organisations to assist with accounting and reporting GHG emissions. The GHG Protocol definition for each emissions scope is provided below:

- Scope 1 GHG emissions are direct emissions from operations that are owned or controlled by the reporting company;
- Scope 2 GHG emissions are indirect emissions from the generation of purchased or acquired electricity, steam, heating, or cooling consumed by the reporting company; and
- Scope 3 GHG emissions are all indirect emissions (not included in scope 2) that occur in the value chain.

In the context of the judgment, GHG emissions associated with the combustion of hydrocarbons produced from a proposed oil and gas project seeking development and production consent are captured within the definition for scope 3 GHG emissions¹. The EIA Directive and the Offshore EIA Regulations do not refer to the concept of scope 1, scope 2 and scope 3 GHG emissions but instead refer only to the effects of a project on the environment. As noted above, the judgment determined that the emissions resulting from the combustion of oil produced from a project are an effect of the project.

Scope 1 and scope 2 emissions are not covered in this supplementary EIA guidance as these emissions are already assessed by a developer in an ES, submitted under the existing EIA process. Therefore, this supplementary EIA guidance only relates to the assessment² of the effects on climate from scope 3 emissions. Scope 3 emissions include downstream emissions in their entirety (e.g. the GHG Protocol defines 15 categories of scope 3 emissions, though not every category will be relevant for offshore oil and gas project assessments) and is not limited to end use emissions from the use of the sold product (scope 3, category 11).

Further information on the offshore oil and gas EIA process can be found in the Offshore EIA Regulations Guidance (OPRED, 2021).

¹ GHG Protocol describes 15 Scope 3 categories

² Assessment undertaken by a developer when preparing an ES in accordance with Regulation 8 and Schedule 6 of the Offshore EIA Regulations

Expectations on ES content for assessing effects of scope 3 emissions

As part of the assessment of the effects of a proposed project seeking development and production consent, the ES must consider scope 3 emissions from downstream activities associated with the production of hydrocarbons over the lifetime of the project. The judgment recognises that the production of hydrocarbons from a proposed project may in some cases lead to a corresponding decrease in production elsewhere (referred to as “substitution”). Even if developers consider this to be the case for their project, any substitution is not considered to be a relevant factor in determining whether scope 3 emissions from a project’s downstream activities are an effect that needs to be assessed in the ES³. The ES should set out, so far as is possible, both an assessment of the effects of a project’s scope 3 emissions and provide a robust justification of the proposed substitution and its extent.

For the assessment of scope 3 emissions, the production figures used to derive the estimates should reflect a reasonable worst-case scenario i.e. the highest anticipated production levels specified in the application for consent submitted to the North Sea Transition Authority (“NSTA”)^{4,5}. The ES should quantify the difference between GHG emissions from a proposed project and the baseline scenario. A realistic and reasonable baseline description should be presented. The baseline scenario should be representative of the existing GHG emissions, which includes emissions from existing oil and gas projects within the selected extent of assessment. Current and historical emissions data may be used to establish a baseline scenario. If alternative development options were considered for a project, then alternative baseline scenarios can be used to address uncertainty in the overall assessment. A qualitative assessment of the GHG impact of alternative development options considered at the scoping stage would be acceptable as part of the overall assessment. There are six steps that would support a robust and consistent GHG emissions assessment (IEMA, 2022):

1. Setting the scope and extent of the assessment;
2. Determination of the baseline;
3. Decide on the emissions calculation methodologies;
4. Data collection;
5. Calculate / determine the GHG emissions inventory; and
6. Consider mitigation opportunities and repeat steps 4 and 5.

³ Friends of the Earth Ltd and Others v SoS for Levelling Up, Housing and Communities and Others [2024] EWHC 2349 (Admin), <https://caselaw.nationalarchives.gov.uk/ewhc/admin/2024/2349>

⁴ In circumstances where a proportion of the hydrocarbons produced is used in the upstream production process, e.g. used as fuel for power generation (which will be covered by scope 1 emissions), estimates of scope 3 emissions should only take account of the net product to potentially avoid double counting of emissions.

⁵ The North Sea Transition Authority is a business name of the Oil and Gas Authority.

Draft supplementary guidance for assessing the effects of scope 3 emissions on climate from offshore oil and gas projects

Further detail on these assessment principles can be found within IEMA's guide to Assessing Greenhouse Gas Emissions and Evaluating their Significance (IEMA, 2022).

As noted above within the "Scope of guidance" section, for the purpose of this supplementary EIA guidance, scope 3 emissions include downstream emissions in their entirety (e.g. the GHG Protocol defines 15 categories of scope 3 emissions, though not every category will be relevant for offshore oil and gas project assessments) and is not limited to end use emissions from the use of the sold product (scope 3, category 11). A wide range of published methodologies (IPIECA, 2016; GHG Protocol, 2013) and emissions conversion factors (DESNZ, 2024; GHG Protocol, 2013; IEA, 2013) are available to estimate scope 3 emissions. Whilst this supplementary EIA guidance is not prescribing a particular methodology, the ES should explain the methodology adopted, and conversion factors used to estimate the scope 3 emissions including the assumptions and associated uncertainties. It must be transparent in the ES as to how the total scope 3 emissions associated with the hydrocarbons produced from a proposed project have been estimated.

When estimating scope 3 emissions, it is important that the scope and extent of the downstream atmospheric emissions assessment within the ES are clear and that the scope of a proposed project is effectively set out (see section 2.1.5 of the Offshore EIA Regulations' Guidance). When done effectively, and usually in tandem with the NSTA's concept select process, the scoping stage of the EIA process will help promote useful two-way feedback between the regulator and the developer during the scoping process. Crucially, this would allow for issues to be identified and addressed at this stage rather than later in the EIA process. All exclusions, limitations, assumptions and uncertainties of the extent of assessment should be included and be based on downstream activities for the extracted hydrocarbons. Developers can choose to break down scope 3 emissions into the relevant downstream GHG Protocol categories; or break them down into downstream refining process, transportation of produced product and end use of the product; or assume that all produced hydrocarbons are combusted. A rationale should be provided for the scope 3 emissions categories selected for assessment and the selected categories should be used as a framework for the presentation of the assessment of scope 3 emissions.

It is important that the methodologies utilised through the assessment are consistent to allow for a meaningful comparison of emissions over time and follow best practice guidance, such as the GHG Protocol (IEMA, 2022). The emissions conversion factors used must be relevant for the hydrocarbons expected to be produced and relevant for the scope 3 emissions category considered in the assessment (DESNZ, 2024; GHG Protocol, 2013 ; IEA, 2013). The assessment of scope 3 emissions should provide a consistent use of units of measurement throughout the ES.

Draft supplementary guidance for assessing the effects of scope 3 emissions on climate from offshore oil and gas projects

Evaluating significance of the likely effects

Predictions of the magnitude and significance of the likely effects of scope 3 emissions 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.

Schedule 6(4) of the Offshore EIA Regulations requires:

"An assessment of the likely significant effects of the project on the environment, including those resulting from—

(a) ...

(f) the impact of the project on climate (for example the nature and magnitude of greenhouse gas emissions) and the vulnerability of the project to climate change; ..."

The ES will need to consider how the GHG emissions associated with a proposed project impact climate. The ES should also outline what steps will be taken towards reducing GHG emissions over the project lifetime.

It is important to put into context the assessment of the likely significant effects of the GHG emissions from a proposed project (IEMA, 2022). When assessing the likely significant effects of a proposed project, which comparators or contextual information are most relevant will depend on a range of factors, including the hydrocarbons expected to be produced (e.g. oil, gas, condensate) and whether the emissions are likely to occur in the UK or elsewhere. For example, scope 3 emissions GHG Protocol categories for downstream activities associated with gas could be different from oil because the location of where and how the product is likely to be used can be different, with gas often more likely to be combusted in the UK than oil, which may be exported, refined and used elsewhere.

Consideration of cumulative effects

The ES must contain information on cumulative effects.

Schedule 6(4) of the Offshore EIA Regulations requires:

"An assessment of the likely significant effects of the project on the environment, including those resulting from—

(a) ...

*(e) the **cumulation** of effects **with other existing or approved projects**, taking into account any existing environmental problems relating to areas of particular environmental importance likely to be affected or the use of natural resources."*

Given the nature of the assessment (i.e., indirect effects borne from scope 3 emissions), the ES should consider the interaction of a proposed project with other existing and known future

Draft supplementary guidance for assessing the effects of scope 3 emissions on climate from offshore oil and gas projects

projects. A developer will therefore need to consider cumulation of effects, for example, if a new oil and gas development project was being tied-back to an existing oil and gas project it would be expected that the cumulative effects of the scope 3 emissions from both projects would be included in the assessment.

Consideration of alternatives

The ES should describe alternatives for a proposed project. Schedule 6(2) of the Offshore EIA Regulation requires:

*“A description of the **reasonable alternatives** (for example in terms of project design, technology, location, size and scale) studied by the developer and an indication of **the main reasons for the option chosen, taking into account the effects of the project on the environment and including a comparison of environmental effects.**”*

The developer will be expected to set out how the findings of the EIA linked to indirect effects (including scope 3 emissions) for the selected option and the alternatives considered, were factored into the justification for the selected development option. Alternatives should be considered in conjunction with section 2.2.2 of the Offshore EIA Regulations' Guidance.

Mitigation Measures

Schedule 6(6) of the Offshore EIA Regulations further sets out that the ES should include “a *description of the features of the project or measures envisaged in order to **avoid, prevent, reduce or offset likely significant adverse effects on the environment***”.

Mitigation measures should be considered as early as possible for a proposed project, ideally at the scoping stage. Where the assessment of scope 3 emissions identifies significant adverse effects from a proposed project, consideration must be given to identifying suitable mitigation measures. The ES must present a comprehensive description of the features of the project or measures to avoid, prevent, reduce or offset likely significant adverse effects of the proposed project on the environment. Offsetting should only be considered if other identified mitigation measures are not suitable. Mitigation measures must be described in the ES and the delivery plan, in order for those measures to be considered as part of the assessment of a proposed project.

Draft supplementary guidance for assessing the effects of scope 3 emissions on climate from offshore oil and gas projects

Environmental Protection Objectives

The assessment of likely significant effects of a project on the environment, must as per Schedule 6(5)(d) of the Offshore EIA Regulations, “take into account environmental protection objectives established in retained EU law or at national level”.

Environmental effects from scope 3 emissions from downstream activities largely relate to the climate impacts of the release of GHGs. In the UK, the basis for reducing territorial GHG emissions is through the Climate Change Act 2008. Scope 3 emissions will impact the UK’s carbon budgets to the extent that any resulting emissions take place in the UK. However, understanding a proposed project’s scope 3 emissions is important to understanding its potential contribution to global carbon emissions.

Draft supplementary guidance for assessing the effects of scope 3 emissions on climate from offshore oil and gas projects

References

DESNZ. (2024). Government conversion factors for company reporting of greenhouse gas emissions. Retrieved from: <https://www.gov.uk/government/collections/government-conversion-factors-for-company-reporting>

Finch Judgment. (2024). R (on the application of Finch on behalf of the Weald Action Group) v Surrey County Council and Others [2024] UKSC 20. Retrieved from: Supreme Court: <https://www.supremecourt.uk/cases/uksc-2022-0064.html>

GHG Protocol. (2001). Greenhouse Gas Protocol Standards and Guidance. Retrieved from: Greenhouse Gas Protocol: <https://ghgprotocol.org/>

GHG Protocol. (2013). Technical guidance for calculating scope 3 emissions (version 1.0). Supplement to the corporate value chain (scope 3) accounting and reporting standard. Retrieved from: https://ghgprotocol.org/sites/default/files/standards/Scope3_Calculation_Guidance_0.pdf

IEA. (2013). Emissions factors. Access to Emissions Factors for data package subscribers. Retrieved from International Energy Agency: <https://www.iea.org/data-and-statistics/data-product/emissions-factors-2>

IEMA. (2022). Guide to: Assessing greenhouse gas emissions and evaluating their significance. Retrieved from Institute of Environmental Management & Assessment: <https://www.iema.net/resources/blog/2022/02/28/launch-of-the-updated-eia-guidance-on-assessing-ghg-emissions>

IPIECA. (2016). Estimating petroleum industry value chain (scope 3) greenhouse gas emissions. Overview of methodologies. Retrieved from: <https://www.ipieca.org/resources/estimating-petroleum-industry-value-chain-scope-3-greenhouse-gas-emissions-overview-of-methodologies>

OPRED. (2021). The Offshore Oil and Gas Exploration, Production, Unloading and Storage (Environmental Impact Assessment) Regulations 2020 - A guide. Retrieved from: <https://www.gov.uk/guidance/oil-and-gas-offshore-environmental-legislation#offshore-oil-and-gas-exploration-production-unloading-and-storage-environmental-impact-assessment-regulations-2020>

This publication is available from: <https://www.gov.uk/government/consultations/consultation-on-draft-supplementary-eia-guidance>

If you need a version of this document in a more accessible format, please email alt.formats@energysecurity.gov.uk. Please tell us what format you need. It will help us if you say what assistive technology you use.