

- Maintaining the definition of major accident that industry is used to, and to keep diving operations of fewer than five people in scope; and
- Keeping non-production installations within scope for enter and leave notification requirements to maintain health and safety standards.
- Maintaining an approval procedure for operator appointments rather than weakening it by replacing it with a notification procedure.

Guidance

38. The new SCR 2015 will be accompanied by revised guidance on the regulations, similar to the current version known as L30 – “A guide to the Offshore Installations (Safety Case) Regulations 2005”. DECC are also planning to amend guidance relating to OPEPs, EMSs and EIAs. Ahead of that revised guidance DECC has outlined draft processes for the additional requirements of the Directive, in relation to OPEPs and EMSs in more detail at Annex 4. Full guidance, which will be published three months before the regulations come into force, will help stakeholders understand what is required by legislation.

What do the changes resulting from the Directive mean for stakeholders?

39. Although much of the current UK offshore oil and gas regulatory regime will remain, there are some significant new legal requirements (e.g. the development of a major accident prevention policy). Where possible, to maintain the current UK regime, we have sought to integrate the Directive’s legislative requirements with our current safety and environmental regimes.

40. The main changes introduced by the Directive can be broadly split into those that impact on the industry and those that are targeted at the CA. The key new requirements that fall on Industry are:

- a. Integrate environmental protection, safety case and safety notification information;
- b. Integrate the environmental and safety internal emergency response arrangements;
- c. The well notification must now include environmental information and describe the findings and comments of the independent and competent person, with a description of the action of the operator in response to these;
- d. The operator must also now consult the independent and competent person before submitting a material change to a well notification;
- e. The existing independent verification scheme for safety critical elements must be extended to safety and environmental critical elements;

- f. Operators and owners must produce a corporate major accident prevention policy;
- g. The operators and owners must produce a document outlining their safety and environmental management system, highlighting how this is integrated with the overall management system;
- h. There is a new duty on operators and owners to take suitable measures when there is an immediate danger or increased risk of a major accident, and then to notify the CA after taking such measures; and
- i. Companies registered in the UK must report on request, international major accidents.
- j. The owners of non-production installations will be required to have an Oil Pollution Emergency Plan for each installation. Operators will be required to submit an addendum to the installation plan for each proposed well operation; and
- k. The owners of non-production installations will be required to have an EMS which meets the requirements of the Directive

41. The requirements that fall on the CA are:

- I. Establishing an offshore CA to undertake the functions outlined in the Directive;
- II. The CA to inform the licensing authority if the operator no longer has the capacity to meet the requirements of the UK's offshore oil and gas regime;
- III. To respond to the design notification, with comments to be taken into account by the operator in the safety case, and if the CA has no comments, to make a statement to that effect; and
- IV. To prohibit the operation, or commencement of operations, on any installation where the measures outlined in the safety case or notifications are considered insufficient.

42. Transitional arrangements to allow operators time to comply with the new requirements have been written into the new regulations.

43. **Chapters 1 to 3** in the consultation document, covers these changes in detail. In commenting on the proposals aimed at the implementing the offshore Directive, consultees should be aware that, in practice, there is no discretion to differ from the requirements set out in the Directive. In **Chapter 1**, we are also asking you to consider our proposed option for establishing an offshore competent authority (CA).

44. **Chapter 4** explains that in respect to the national emergency response plans and emergency preparedness provisions of the Directive, it is considered that existing UK legislation and guidance meets those requirements. On that basis, DfT and the Maritime

and Coastguard Agency (MCA) explain that they do not need to introduce new legislation to implement these Directive requirements.

Additional areas covered by this consultation document

45. In **Chapter 5**, we outline the changes proposed to the HSE's health and safety legislation to implement operational lessons over the last ten years and to update this legislation to take account of emerging energy technologies. (e.g. underground coal gasification). We are also taking this opportunity to reduce the stock of offshore legislation when appropriate. The key amendments proposed are:

- To ensure that future emerging energy technologies (e.g. underground coal gasification) are covered by a robust regulatory regime for their exploration phase, while making sure that the UK fully implements Directive 92/91, steps need to be taken to bring such activities within scope of our onshore oil and gas regulatory regime;
- Hydrocarbon gas is now being stored onshore in solution mined salt caverns, with operators voluntarily complying with the UK's onshore major hazard regime. To achieve consistency longer-term, and maintain public and investor confidence that robust regulation is in place, we plan to update our onshore oil and gas major hazard legislation to cover these activities;
- We propose updating the definition of an offshore installation in the Offshore Installations and Pipelines (Management and Administration) Regulations 1995 to provide clarity and consistency with the definition in the 2013 Health and Safety at Work etc Act (Application Outside Great Britain) Order;
- We plan to amend the definition of operator to ensure that an operator can be identified for high risk decommissioning activities if a petroleum licence holder is no longer in place;
- We plan to mesh the Offshore Installations (Safety Zones) Regulations 1987 into the new SCR 2015 and then revoke the 1987 regulations;
- We plan to place the requirement to register deaths on onshore installations into the Offshore Installations and Pipeline Works (Management and Administration) Regulations and then revoke the Logbook and Registration of Deaths Regulations 1972; and
- We propose to revoke the Offshore Safety (Miscellaneous Amendments) Regulations 2002 (which extends the definition of offshore installation) and incorporate the requirements in the updated definition of offshore installation (mentioned above).

46. In **Chapter 6**, we outline the changes we are proposing to the Prevention of Fire and Explosion, and Emergency Response on Offshore Installations and the Health Care and First Aid on Offshore Installations and Pipeline Works ACoPs. This work is part of HSE's ongoing review of all of its ACoPs.

47. Annex 1 of the consultation document highlights the changes made to UK legislation to implement the Directive's requirements that are not addressed in the main text of this document. This is because these changes will result in minimal changes to the UK legislation, there are no alternative implementation options to consider and there is no significant impact of the proposals. On the remaining legislative changes, where there are either options on how a given requirement can be implemented or a need for us to ask your views on the estimated burden on industry, this consultation document seeks your views.

48. The draft regulations at **Annexes 2 and 3** demonstrate how DECC and HSE propose to transpose the majority of the Directive. The aim is to give stakeholders a sense of what the new Regulations may look like to assist them in responding to this consultation. Stakeholders will also be able to consider whether the Regulations are well structured so that the law is easy to understand. The Regulations will be subject to change in response to this consultation and for technical reasons.

49. Some elements of the Directive do not need legislation, and these will be implemented via administrative procedures (e.g. a mechanism for the confidential reporting of safety and environmental concerns).

50. In order to assist stakeholders to consider the implications of changes to the environmental legislation as a result of the Directive, DECC has proposed approaches to implement some of the requirements and these are set out in **Annex 4**.

Consultation questions

51. We are seeking answers to questions in a number of areas. However, as much of this consultation document relates to how we propose to implement a Directive, there is often little option than to do what the Directive requires. In such cases, many of the questions asked related to our estimated costs to Industry from implementing the new requirements.

52. All the consultation questions asked throughout the document are listed in the next section.

Catalogue of consultation questions

Consultation Question	
1.	Do you agree with the rationale for selecting the proposed approach for establishing the UK's offshore oil and gas competent authority? If you do not, explain why.
2.	Do you agree with, or have you any comments on, the estimated costs for the various CA options given in the Impact Assessment?
3.	Do you agree with the proposed approach to dealing with the definition of major accident? If you do not, explain why.
4.	Do you agree that it is important, with regards to maintaining safety and environmental standards, that the UK regulator continues to monitor when non-production installations enter or leave UK waters? If you do not agree, explain why.
5.	Do you agree with the DECC and HSE proposal to broadly maintain the current UK approach of having different emergency plans under our range of offshore oil and gas legislation, rather than introducing a requirement to produce one plan? If you do not, explain why.
6.	Do you agree with the estimated costs of producing an internal emergency response plan and describing it within the safety case? If you do not, explain why.
7.	Do you agree with the proposal to extend the independent verification system to cover safety and environmental-critical elements (SECE) and meet the new Directive criteria via SCR 2015? If you do not, explain why.
8.	Do you agree with the estimated additional costs of updating the verification scheme? If you do not, explain why.
9.	Do you agree with DECC and HSE's rationale for applying the requirement to produce a major accident prevention policy on all operators and owners, and not just corporations? If you do not, explain why.
10.	Do you agree with the estimated costs of producing a corporate major accident prevention policy? If you do not, explain why.

11.	Do you support DECC and HSE's proposed approach of keeping the requirements for a safety or an environmental management system in separate legislation? If you do not, explain why.
12.	Do you agree with the estimated additional costs to operators and owners of updating the safety management systems, setting out in a document a safety and environmental management system and then describing this in the safety case? If you do not, explain why.
13.	Do you support DECC and HSE's proposed approach, of including within the safety case short descriptions and links relating to environmental information, to meet the Directive's requirement for the report on major hazards? If you do not, explain why,
14.	Do you agree with the estimate of the additional costs of producing a production or non-production installation safety case? If you do not, explain why.
15.	Do you agree with the proposal to briefly describe and/or make appropriate links to existing environmental information within a design or relocation notification? If you do not, explain why.
16.	Do you agree with the estimated additional costs of producing a design or relocation notification? If you do not, explain why.
17.	Do you agree with the proposal to briefly describe and/or make appropriate links to the environmental information within a well notification? If you do not, explain why.
18.	Do you agree with the estimated additional costs of including this information in a well notification? If you do not, explain why.
19.	If you are an operator, can you provide an estimate of the additional cost to you per well of including a report of the findings of the ICP in a well notification with a description of the action taken, and to consult the ICP before submitting a material change to a well notification? If so, what is the cost?
20.	Do you agree with the proposal to briefly describe and/or make appropriate links to the environmental information within a combined operations notification? If you do not, explain why.
21.	Do you agree with the estimated additional costs of producing a combined operations notification? If you do not, explain why.

22.	Do you agree with the proposal to briefly describe and/or make appropriate links to existing information in the decommissioning safety case? If you do not, explain why.
23.	Do you agree with the estimated negligible additional costs of producing a decommissioning safety case? If you do not, explain why.
24.	Do you envisage any problem complying with this reporting requirement? If you do, please explain.
25.	Do you agree with the estimated negligible cost of reporting the action taken when there has been an immediate danger to human health or a significant increase in the risk of a major accident? If you do not, explain why.
26.	Do you agree with the estimated negligible cost of producing these reports on international major accidents? If you do not, explain why.
27.	Do you see any negative consequences of meshing the Offshore Safety Zone Regulations with the SCR 2015? If you do, explain why.
28.	Initial discussions with Industry have indicated that they cannot foresee when they will need to use the new provisions in SCR 2015, 29(g), as all occasions when they will need to allow a vessel to enter the safety zone are covered by the existing regulations. Do you agree?
29.	Do you agree that the requirement to use suitable methods of recording and collecting data that ensures reliability and prevents the possibility of the data being manipulated would impose no costs on industry? If you do not, explain why.
30.	Do you agree with the feed-back to HSE that the requirement to report under the Implementing Act would impose no additional costs as such reports would be routine and incorporated into existing processes for internal reporting, investigations and learning mechanisms? If you do not agree, please explain why.
31.	Do you agree with the estimated additional costs of establishing the databases and computer systems required to manage the reporting of the additional criteria that are expected under the Implementing Act? If you do not, please explain why.
32.	Do you support DECC and HSE's proposed approach to implementing this requirement for operators and owners to cooperate in producing standards and guidance? If you do not, explain why.
33.	Do you agree that as Industry already transports HSE and DECC inspectors

	offshore, and provides accommodation and meals when appropriate, that there will be no additional cost to industry from this requirement? If you do not agree, please explain why.
34.	Do you agree that there are no additional costs to Industry from this reporting requirement? If you do not, explain why.
35.	Do you agree with the transitional arrangements proposed by DECC and HSE? If you do not, explain why.
36.	Do you agree with using OIAC to deliver the Directive's requirements for a mechanism for tripartite consultation? If you do not, explain why.
37.	Do you agree that the proposed legislative changes outlined above are sufficient to transpose the Directive's environmental requirements in relation to OPEPs? If not, please explain why.
38.	Do you agree with the proposed approaches to the new requirements as detailed at Annex 4, which set out how DECC thinks that that new requirements might work in practice? If not, please explain why.
39.	Do you agree that the estimated additional cost of producing decommissioning OPEPs is accurate? If you do not, please explain why.
40.	Do you have any views on the likely pace of decommissioning work over the next ten years? If you do, please provide details
41.	Do you agree that the estimated additional cost of producing and maintaining OPEPs for production installations is accurate? If you do not, please explain why.
42.	Do you agree that the estimated additional cost of producing and maintaining OPEPs for non-production installations is accurate? If you do not, please explain why.
43.	Do you agree that the estimated additional cost of producing an addendum for well operations is accurate? If you do not, please explain why.
44.	Do you agree that the estimated additional cost of amending an OPEP to cover combined operations is accurate? If you do not, please explain why.
45.	Do you agree that the requirements: to have an approved OPEP before operations commences; to carry out OPEP exercises and retain evidence of those exercises; and the provision for powers to prohibit operations where no OPEP is

	in place, where the plan is deemed insufficient or where the requirements of the plan are not being met will not result in any additional costs to industry? If you do not, please explain why.
46.	Do you agree that the proposed legislative changes outlined above are sufficient to transpose the Directive's environmental requirements in relation to SEMSs? If not, please explain why.
47.	Do you agree that the estimated costs of amending an EMS to take account of the environmental requirements is accurate? If not, please explain why.
48.	Do you agree that the estimated additional costs to ensure that EMSs fully satisfy the requirements of the Directive are accurate? If you do not, please explain why.
49.	Do you agree that the estimated additional costs to ensure that new EMSs fully satisfy the requirements of the Directive are accurate? If you do not, please explain why.
50.	Do you agree that the majority of owners of non-production installations already have an EMS? If you do not, please explain why.
51.	Do you agree that the estimated additional costs to ensure that EMSs held by owners of non-production installations fully satisfy the requirements of the Directive are accurate? If you do not, please explain why.
52.	Bearing in mind the assumptions detailed above, do you agree that the estimated additional costs of producing EMSs for those owners who do not currently have an EMS are accurate? If you do not, please explain why.
53.	Do you agree that it is unlikely that a material change would force an early review of an EMS?
54.	Do you agree that the estimated additional cost to submit EMSs for review is accurate? If you do not, please explain why.
55.	Do you agree that the estimated additional costs to provide evidence of financial liability are accurate? If you do not, please explain why.
56.	Do you agree that the proposed legislative changes outlined above are sufficient to transpose the Directive's licensing requirements? If not, please explain why.
57.	Do you agree that these changes are minimal and will not result in any significant additional costs for industry?

58.	Do you agree that the National Contingency Plan (NCP) for dealing with marine pollution from ships and offshore installations and the Integrated Offshore Emergency Response (IOER) Plan together constitute the external emergency response plan for the United Kingdom? If you do not, please explain why.
59.	Do you agree that the NCP and IOER meet the requirements of Annex VII? If you do not, please explain why.
60.	Do you agree that the international agreements entered in to by the United Kingdom meet the requirement of Article 29(4)? If you do not, please explain why.
61.	Do you agree that the inventories maintained by the MCA and OSRL and the operational instructions in the NCP meet the requirements of Annex VIII point 1? If not, please explain why.
62.	SAR resources in the UK are well established and maintained and are available for response to any maritime emergency. The oil and gas industries provide resources of their own that are, or can, provide emergency response when required. On this basis, do you agree that the UK's SAR resources are sufficient? If not, please explain why.
63.	Do you consider that the current exercise regime meet the requirements of Article 29 (6) and (7)? If not, please explain why.
64.	Do you agree that Regulation 5 to the OPRC Regulations 1998 meets the requirements of Article 30 (1)? If not, please explain why.
65.	Do you agree that the United Kingdom already meets the requirements of Article 30 (2) and (3)? If not, please explain why.
66.	Do you agree that as a result of the requirements of the Directive already being met for Articles 29 and 30 that there are no policy changes that will lead to costs or savings for business, public or civil society organisations, regulators or consumers? If not, please provide details.
67.	Can you think of any situation where an offshore installation would ever be used for anything other than activities connected with those outlined within the definition of an offshore installation in AOGBO and MAR?
68.	Do you think that HSE needs to take these steps to ensure that it can continue to regulate high risk decommissioning and dismantling activities associated with offshore installations, that had been used for other purposes, using it offshore major hazard regulations?

69.	Does the proposed definition of operator help to identify the correct responsible body when a petroleum or gas importation and storage licence is not in place? If not, please explain why.
70.	Do you agree with HSE that, as UCG pilots are due to start in the next 3-5 years, it is important to act now to ensure onshore oil and gas major hazard regulations are updated to include this activity? If you do not agree, then please explain why.
71.	Do you agree with the estimated cost to industry of complying with the onshore major hazard regime when undertaking this work activity? If you do not, please explain why.
72.	Do you agree with HSE that it is important to bring these gas storage activities within its onshore oil and gas major hazard legislation, to maintain standards and to ensure a level playing field between existing and new contractors? If you do not agree, then please explain why.
73.	Do you agree with the estimated cost to industry of complying with the onshore major hazard regime when undertaking these onshore gas storage activities? If you do not, please explain why.
74.	Do you agree that there are no costs to Industry of reporting these additional well dangerous occurrences? If you do not, explain why.
75.	Do you foresee any unintentional consequences from HSE's proposed approach to handling the Offshore Installations (Safety Zones) Regulations 1987, the Logbook and Registration of Deaths Regulations 1972 or the Offshore Safety (Miscellaneous Amendments) Regulations 2002?
76.	Do you agree with HSE's initial assessment that these two Approved Codes of Practice should be kept, and updated and simplified when appropriate? If you do not, please explain why.
72.	Do you agree with the main changes proposed to these two Approved Codes of Practice? If you do not, please explain why.

Chapter 1 – Establishing an Offshore Competent Authority

1.1 Articles 8 and 9 of Directive 2013/30/EU require the UK to set up a Competent Authority (CA), by 19 July 2015, to oversee industry compliance with the Directive and to undertake certain related functions such as accepting and/or assessing relevant reports and other required notifications.

1.2 Under the current UK regime, the Department of Energy and Climate Change (DECC) is responsible for implementing offshore environmental legislation, and this is performed by their Offshore Oil and Gas Environment and Decommissioning Team (OGED). The Health and Safety Executive (HSE) is responsible for implementing health and safety legislation as it relates to offshore oil and gas operations, and this is performed by their Energy Division (ED).

1.3 DECC and HSE already work closely together under a Memorandum of Understanding (MoU) that establishes a framework for liaison between the two regulators and their regimes. Examples include a coordinated sign-off procedure for all new exploration and appraisal wells, and joint environmental and safety inspections where this is appropriate. The operational MoU is overseen by a high-level cross-Departmental group.

1.4 Because these existing arrangements are not sufficient to comply with the requirements of the Directive, the Government proposes that DECC and HSE work in a partnership CA to deliver the functions specified in the Directive, with each party concentrating on their areas of expertise. This CA would be governed via an enhanced MoU between DECC and HSE, and would be analogous to the existing model used for the regulation of onshore major hazard installations². A high-level CA oversight Board would provide the forum to agree on implementation arrangements and achieve shared perspectives and decisions.

1.5 Although the day-to-day functions of the CA would be delivered by the respective parts of DECC's OGED and HSE's ED, both partners would be working under a set of common CA arrangements. From a stakeholder perspective, this would manifest itself by a single regulatory face from the CA, including:

- DECC and HSE staff working seamlessly under a set of common CA systems and processes
- A CA IT portal for all notifications and submissions to the CA, regardless of whether they relate to safety or environmental issues

² The COMAH Competent Authority for onshore major hazard installations involves HSE and the Environment Agency (in England and Wales) and the Scottish Environment Protection Agency (in Scotland).

- A single, coherent set of CA assessment/acceptance procedures for safety cases, notifications etc.
- A single CA intervention plan for each operator and owner, covering all planned CA inspection activities.
- CA proactive interventions fully coordinated and planned, with the presumption of joint DECC/HSE visits wherever appropriate
- Coordinated CA investigations, with decisions made at an early stage as to which regulatory partner should lead
- A single enforcement model covering all CA enforcement
- A CA website for all information relating to the CA

1.6 These proposals would avoid major machinery of Government changes, and would provide a single, consistent regulatory interface for industry with respect to the prevention of the major hazard safety and environmental events covered by the Directive. They require minimal changes to the already robust UK offshore regulatory regime, fully implement the Directive in line with UK Government policy, and avoid unnecessary 'gold plating'.

1.7 Under this proposal DECC's existing environmental assessment and regulatory regime for offshore oil and gas activities, e.g. chemical and oil discharge permits, would not change and that regime would not be included within the scope of the CA.

1.8 The Directive requires that the UK ensures "the independence and objectivity of the competent authority in carrying out its regulatory functions". It further specifies that "conflicts of interest shall be prevented between, on one hand, the regulatory functions of the competent authority and, on the other hand the regulatory functions relating to economic development of the offshore natural resources and licensing of offshore oil and gas operations". Although DECC is currently responsible for licensing and the economic development of oil and gas resources via the DECC Licensing, Exploration and Development (LED) Team, these functions are already separate from the work of DECC OGED and there will shortly be further separation following the recommendation in the final report of Sir Ian Wood's "UKCS Maximising Recovery Review"³. A new arm's length regulatory body will be created, charged with effective stewardship and economic regulation of UKCS hydrocarbon recovery, and implementation of this recommendation will reinforce the independence required when OGED is working within the proposed CA.

A number of alternative ways of implementing the CA requirements of the Directive were considered before arriving at the preferred option. These alternatives are outlined in the attached IA (**see Sections 8.1 and 9.1**), with associated analysis and estimated costs.

³ <http://www.woodreview.co.uk/> The Wood Review examined key factors that affect UKCS performance and developed recommendations designed to enhance economic recovery of oil and gas reserves in the future. The interim report was published on 11 November 2013. The final report and recommendations were produced in early 2014 and funding announced in the March 2014 budget to implement the recommendations.

Consultation Question

- | | |
|----|---|
| 1. | Do you agree with the rationale for selecting the proposed approach for establishing the UK's offshore oil and gas competent authority? If you do not, explain why. |
| 2. | Do you agree with, or have any comments on, the estimated costs for the various CA options given in the Impact Assessment? |

Chapter 2 – Changes to health and safety legislation, and new administrative mechanisms, to implement the offshore Directive

2.1 In this Chapter, we outline the impact the Directive could have on the current scope of the UK's health and safety regime and how we propose to manage this when implementing the Directive. We then go on to outline the main changes required to HSE's health and safety legislation to implement the Directive. This section is split into the proposals to maintain the current scope of the UK's health and safety regime, the new requirements that fall on the Industry (operators and owners of non-production installations), and issues related to tripartite consultation. **Annex 2** outlines the draft Offshore Installations (Safety Case) Regulations 2015.

Maintaining the current scope of the UK's health and safety regime

2.2 When implementing this Directive, our intention is to try and maintain as much of the existing UK offshore oil and gas regime as we can. However, by maintaining the current offshore oil and gas regime and existing standards for safety and environmental protection there are a few areas where we potentially gold plate the Directive implementation. In each case, this is to maintain the current scope and standards, for example by keeping existing UK legislative requirements within SCR 2015. Two significant areas of gold plating proposed to maintain the scope of the current UK offshore oil and gas health and safety regime are outlined in detail below.

Definition of major accident

2.3 The definition of major accident within our existing offshore health and safety regulations has to be amended to align with the definition in the Directive. In particular, the definition of major accident will need to be extended to cover major environmental incidents (**See the SCR 2015, Regulation 2**).

2.4 The current UK definition of major accident includes “the failure of life support systems for diving operations in connection with the installation, the detachment of a diving bell used for such operations or the trapping of a diver in a diving bell or other subsea chamber used for such operations”. This is not included in the Directive definition. The definition of major accident in the Directive does make provision for ‘any other incident leading to fatalities or serious injury to five or more persons...’ and given that most diving operations associated with offshore installations involve five or more people, diving operations are likely to be covered in most instances. It could also be argued that any subsea work on installations or pipelines is likely to be covered by other aspects of the Directive's definition

of a major accident. However, a small number of diving operations will involve less than five people and we would prefer to make it legally clear that such diving operations remain within scope.

2.5 HSE is concerned that the omission of such operations from the definition of major accident, and therefore consideration within the safety case, would have a detrimental effect on offshore diving safety. Commercial diving is widely recognized as a hazardous work activity – particularly offshore. Over the last 40 years, at least 52 divers have died while working in the offshore oil and gas industry in the North Sea. To provide clarity and consistency for industry, HSE is proposing to retain the current diving specific element in the definition of the major accident. **Section 9.5.1 of the IA** estimates that the costs of keeping diving operations of less than five people in scope of the regulations are minimal.

2.6 The Directive’s definition of major accident also only covers an event involving major damage to the structure of the installation, where there are fatalities or serious personal injury, or there is a significant potential to cause fatalities or serious personal injury. The definition of major accident in SCR 2005 does not have the qualification relating to fatalities or serious injury, and so this could be seen as gold plating. As keeping the SCR wording will result in no practical difference, we propose to keep the current wording in the UK definition.

Enter or Leave notifications for non-production installations

2.7 The Offshore Installations and Pipeline Works (Management and Administration) Regulations 1995 (MAR), contain the requirement for entry and leave notifications. In the UK, HSE monitors the movements of both production and non-production installations (e.g. drilling rigs), but the Directive only requires production installations to submit these notifications. HSE considers that there would be detrimental impacts on UK safety standards if the regulator did not continue to monitor the movements of non-production installations and therefore intends to maintain the current approach.

2.8 Section 9.5.2 of the IA indicates that as industry is already providing enter or leave notifications for production and non-production installations, there is no additional cost imposed by maintaining this requirement.

Consultation Questions	
3.	Do you agree with the proposed approach to dealing with the definition of major accident? If you do not, explain why.
4.	Do you agree that it is important, with regards to maintaining safety and environmental standards that the UK regulator continues to monitor when non-production installations enter or leave UK waters? If you do not agree, explain why.

Requirements that fall on Industry

Internal Emergency Response Plans

2.9 Historically, in the UK we have not asked operators to prepare one emergency plan covering all areas (environment and safety) and supporting arrangements. A range of plans exist to meet the requirements under different offshore oil and gas regulations. For example, owners or operators prepare and submit emergency response plans under safety legislation, the Offshore Installations (Prevention of Fire and Explosion, and Emergency Response) Regulations 1995 (PFEER); and operators submit oil pollution emergency plans (OPEPs) under environmental legislation, the Merchant Shipping (Oil Pollution Preparedness, Response and Co-operation Convention) Regulations 1998 (OPRC).

2.10 As the Directive does not require us to bring our existing arrangements into one plan, and we are looking to maintain as much of the existing oil and gas regime as possible, we are looking to minimise changes to the UK current emergency response approach. However, there will be a need for operators and owners to make additional arrangements, and provide additional information, to meet the new requirements under the Directive.

2.11 HSE is proposing to make amendments to PFEER and via SCR 2015 to address the additional duties/information required under the Directive (e.g. an inventory of the safety emergency response equipment). Operators/owners will also need to provide a brief description of the Internal Emergency Response Plan in the safety case (Government lawyers have called this the internal emergency response arrangements in the draft Regulations to imply that we are not creating one plan, but maintaining our current arrangements). **Regulation 44 and 45 of the SCR 2015**, including **Schedule XX on PFEER**, outline the proposed new requirements. [Drafting Note - Draft PFEER regulations are still under development. This is a complex area, that cannot be finalised until DECC Legal and TSoL agree a joint way forward].

2.12 The total estimated costs of implementing these amendments are outlined in **Section 9.6.1 of the IA**. This is ten-year present value cost to industry of between £3.2 million and £28.3 million, with a best estimate of around £12.6 million.

Consultation Question	
5.	Do you agree with the DECC and HSE proposal to broadly maintain the current UK approach of having different emergency plans under our range of offshore oil and gas legislation, rather than introducing a requirement to produce one plan? If you do not, explain why.
6.	Do you agree with the estimated costs of producing an internal emergency response plan and describing it within the safety case? If you do not, explain why.

Independent verification

2.13 Presently, under SCR 2005, owners or operators are required to have in place an independent verification scheme to provide assurance that safety-critical elements (SCE) of the installation's plant and equipment are suitable for their intended purpose. To comply with the Directive, the verification scheme in SCR 2015 needs to be extended to cover the verification of safety and environmental-critical elements (SECE). In addition, the verification scheme needs to comply with some new criteria outlined in the Directive (e.g. arrangements to manage the flow of information between the operator/owner and the independent verifier and to ensure the verifier is given sufficient authority to carry out their functions).

2.14 Article 17(2) of the Directive states that - "independent verification shall be without prejudice to the responsibility of the operator or owner for the correct and safe functioning of the equipment and systems under verification". We think this principle is already in place in the UK. [Drafting Note – awaiting legal advice on this issue]

2.15 **Regulations 2(5-8), 19(4) and 32** outline the changes proposed. **Section 9.6.1 of the IA** estimates the ten-year present value cost to industry of implementing these changes as between £1.2 million and £4.9 million, with a best estimate of around £3.1 million.

Consultation Questions	
7.	Do you agree with the proposal to extend the independent verification system to cover safety and environmental-critical elements (SECE) and meet the new Directive criteria via SCR 2015? If you do not, explain why.
8.	Do you agree with the estimated additional costs of updating the verification scheme? If you do not, explain why.

Corporate Major Accident Prevention Policy (CMAPP)

2.16 There is a new requirement for operators/owners to prepare a Corporate Major Accident Prevention policy (CMAPP). DECC and HSE believe that although operators/owners will already have some policies in place that may provide some of the information needed, they will not have one that specifically covers the prevention of major accidents.

2.17 Lawyers have indicated that this requirement could be interpreted by a minority as only applying to operators and owners which are corporations. Alternatively (as was the UK's view during negotiations) this requirement could be interpreted as applying to all operators and owners. We have adopted the latter interpretation when implementing this requirement, as it does not make sense to only have some of the operators and owners

involved in offshore oil and gas operations being captured by this duty to outline their high-level commitment to prevent major accidents.

2.18 **Regulation 30, and Schedules 10 and 11, of SCR 2015** outline the proposed new requirement. The total estimated costs of implementing this requirement are outlined in **Section 9.6.3 of the IA**. This gives a ten-year present value cost to industry of implementing this requirement of between £3.2 million and £14.3 million, with a best estimate of around £8.8 million.

Consultation Questions	
9.	Do you agree with DECC and HSE's rationale for applying the requirement to produce a major accident prevention policy on all operators and owners, and not just corporations? If you do not, explain why.
10.	Do you agree with the estimated costs of producing a corporate major accident prevention policy? If you do not, explain why.

Safety and Environmental Management System

2.19 There is already a legal requirement in the UK to have a safety management system (SMS) under the Offshore Installations (Safety Case) Regulations 2005. DECC also has in place a voluntary agreement implementing a requirement of the Convention for the Protection of the Marine Environment of the North East Atlantic (the OSPAR Convention) that operators should maintain an environmental management system (EMS).

2.20 To minimise the changes to the UK's offshore oil and gas regime and burdens on Industry, DECC and HSE propose to maintain, and update where appropriate, the current arrangements that separately require safety and environmental management systems. To ensure that the safety management systems include the additional information required under the Directive, HSE will include these requirements within SCR 2015.

2.21 Under the Directive, operators and owners also need to set out in a statement how the safety and environmental management systems will be brought together and integrated with the overall management system. Operators and owners will need to provide a brief description of the safety and environmental management systems and how they are integrated with the overall management system in the safety case and design notifications. This new requirement will be included in the SCR 2015

2.22 **Regulations 31, and Schedules 11 and 12, of SCR 2015**, outline the proposed safety and environmental management system requirements. **Section 9.6.4 of the IA** estimates the ten-year present value cost to industry of implementing these changes as between £297 thousand and £1.4 million, with a best estimate of around £833 thousand.

Consultation Questions

11.	Do you support DECC and HSE’s proposed approach of keeping the requirements for a safety or an environmental management system in separate legislation? If you do not, explain why.
12.	Do you agree with the estimated additional costs to operators and owners of updating the safety management systems, setting out in a document a safety and environmental management system and then describing this in the safety case? If you do not, explain why.

Safety Cases for a production or non-production installation

2.23 The introduction to this consultation document highlighted that the Directive requires that a report on major hazards is produced by operators and owners. DECC and HSE propose to use the safety case, updated to include relevant descriptions relating to environmental information and links to existing environmental demonstrations and assessments, to meet the Directive’s requirement. Operators/Owners would need to submit short descriptions of the verification scheme, safety and environmental management system, and internal emergency response arrangements in the safety case, but these requirements are separately assessed in the respective sections of the IA.

2.24 Owners/operators would also need to include additional general information in the safety case (e.g. details of the relevant codes, standards and guidance used in the construction and commissioning of the installation and a statement made after considering the findings of the independent verifier). They also need to provide ‘any other relevant details’ that the CA considers necessary before a safety case is accepted, but in practice this requirement is already covered by the existing regime.

2.25 **Regulations 7 and 8, and Schedules 2 and 3, of SCR 2015** outline the proposed changes. The total estimated costs of implementing this requirement are outlined in **Section 9.6.5 of the IA**. This gives a ten-year present value cost to industry of implementing this requirement of between £4.9 million and £7.4 million, with a best estimate of around £6.2 million.

Consultation Question

13.	Do you support DECC and HSE’s proposed approach of including within the Safety Case short descriptions and links relating to environmental information, to meet the Directive’s requirement for the report on major hazards? If you do not, explain why.
14.	Do you agree with the estimate of the additional costs of producing a

	production or non-production installation safety case? If you do not, explain why.
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Design and Relocation Notifications

2.26 Under the current SCR 2005 Regulations, owners or operators of installations are required to submit a design notification in the case of a planned production installation. In addition, where an existing production installation is to be moved, the operator must submit a relocation notification. There are separate requirements to provide environmental information.

2.27 The key change under the Directive, is that design and relocation notifications must now include reference to the environmental information, in addition to the existing safety information. For example, they will need to describe the design concept in relation to major hazard scenarios for both the environment and safety. Although DECC and HSE estimate that the information needed for these notifications is already produced (e.g. in an Environmental Statement (ES)) additional work would be needed to briefly describe and/or make appropriate links to this information within a design or relocation notification.

2.28 **Regulation 6, and Schedule 1, of SCR 2015** outline the proposed requirements. **Section 9.6.6 of the IA** estimates the ten-year present value cost to industry of implementing these changes as between £91 thousand and £137 thousand, with a best estimate of around £114 thousand.

Consultation Questions	
15.	Do you agree with the proposal to briefly describe and/or make appropriate links to existing environmental information within a design or relocation notification? If you do not, explain why.
16.	Do you agree with the estimated additional costs of producing a design or relocation notification? If you do not, explain why.

Well Notifications

2.29 Under the current UK health and safety regime, well operators are required to submit a well notification. This notification provides the regulator with a range of information, related to the planned well operations. This includes particulars of the well, a description of the well operations and the programme of work. The Directive requires that additional information (e.g. on environmental issues) is included in a well notification.

2.30 DECC and HSE estimate that the information needed for these notifications is already produced as a result of other requirements (e.g. an ES or a request for a Direction that an ES is not required). However, additional work will be needed to briefly describe and/or make appropriate links to the information within a well notification.

2.31 **Regulation 17, and Schedule 6, of SCR 2015** outline the proposed new requirements. The total estimated costs of implementing these requirements are outlined in **Section 9.6.7 of the Impact Assessment**. This gives a ten-year present value cost to industry of between around £8.4 million and £12.6 million, with a best estimate of around £10.5 million.

2.32 There is also a new requirement in the Directive for the operator to include a report of the findings of the independent and competent person (ICP) in a well notification with a description of the action taken (**see Schedule 6(16) of SCR 2015**). The operator should also consult the ICP before submitting a material change to a well notification (**SCR 2015 – Regulation 17(4)**). However, **Section 9.6.7 of the IA** makes it clear that the industry focus group working with DECC and HSE on the costs to industry of these requirements was not able to make an estimate of the cost of these new requirements.

Consultation Question	
17.	Do you agree with the proposal to briefly describe and/or make appropriate links to the environmental information within a well notification? If you do not, explain why.
18.	Do you agree with the estimated additional costs of including this information in a well notification? If you do not, explain why.
19.	If you are an operator, can you provide an estimate of the additional cost to you per well of including a report of the findings of the ICP in a well notification with a description of the action taken, and to consult the ICP before submitting a material change to a well notification? If so, what is the cost?

Combined Operations Notifications

2.33 Combined Operations Notifications are already submitted under the current regime, but there are new requirements to include environmental information within the notification. Again, DECC and HSE estimate that the information needed for these notifications is already produced as a result of other requirements (e.g. a request for a navigational consent to locate a non-production installation). Additional work would be needed to briefly describe and/or make appropriate links to this information within a combined operations notification

2.34 **Regulation 10, and Schedule 4, of SCR 2015** outline the proposed changes. **Section 9.6.8 of the IA** estimates the ten-year present value cost to industry of implementing these changes as £418 thousand and £510 thousand, with a best estimate of around £464 thousand.

Consultation Question	
20.	Do you agree with the proposal to briefly describe and/or make appropriate links to the environmental information within a combined operations notification? If you do not, explain why.
21.	Do you agree with the estimated additional costs of producing a combined operations notification? If you do not, explain why.

Dismantling a fixed production installation

2.35 Under the Directive, new information is required when a fixed production installation is dismantled. New requirements will be included in SCR 2015 for:

- Information on the means of isolating hazardous substances and the permanent sealing of wells;
- A description of the risks to workers and the environment, the total exposed population; and
- Information on the emergency response arrangements to secure the safe evacuation and rescue of personnel, and information on maintaining control systems for preventing a major accident or a major environmental incident.

2.36 Some of the information may already be produced as a result of other requirements (e.g. the Decommissioning Programme and supporting documents). However, additional work would be needed to briefly describe and/or make appropriate links to this information in the decommissioning safety case.

2.37 **Regulation 11, and Schedule 5, of SCR 2015** outline the proposed new requirements. **Section 9.6.9 of the IA** estimates that the cost of adding this additional information would be negligible as the vast majority is already included. As such, this is expected to impose no cost on industry.

Consultation Question	
22.	Do you agree with the proposal to briefly describe and/or make appropriate links to existing information in the decommissioning safety case? If you do not, explain why.
23.	Do you agree with the estimated negligible additional costs of producing a decommissioning safety case? If you do not, explain why.

Reporting imminent danger or increased risks of a major accident

2.38 When an activity carried out by an operator or owner poses an immediate danger to human health or significantly increases the risk of a major accident, the Directive requires that they must take suitable measures, including suspending the activity, until the danger or risk is adequately controlled. When an operator takes such action, they must notify the offshore Competent Authority no later than 24 hours after taking the action.

2.39 **Regulation 37 of SCR 2015** outlines the proposed change. **Section 9.6.10 of the IA** estimated the costs of making such reports to be negligible. As such, this is expected to impose no cost on industry.

Consultation Question	
24.	Do you envisage any problems complying with this reporting requirement? If you do, please explain.
25.	Do you agree with the estimated negligible cost of reporting the action taken when there has been an immediate danger to human health or a significant increase in the risk of a major accident? If you do not, explain why.

Reporting major accidents outside the EU

2.40 This is a new requirement on UK-registered companies with operations outside the EU. Under the SCR 2015, these companies will now need to report to the CA on request

details of any major accidents they, or their subsidiaries, have been involved in outside the EU.

2.41 **Regulation 38 of SCR 2015** outlines the proposed change. **Section 9.6.11 of the IA** estimates the costs of making such reports as negligible. As such, this is expected to impose no cost on industry.

Consultation Question

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| 26. | Do you agree with the estimated negligible cost of producing these reports on international major accidents? If you do not, explain why. |
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Safety Zones

2.42 The UK Offshore Installations Safety Zones Regulations 1987 specify when a vessel can enter an offshore safety zone. Under the Directive, the owner or operator of the installation can grant permission for a vessel to enter the safety zone for reasons other than those specified in the Offshore Installations Safety Zone Regulations, which restricts the granting of permissions to the regulator. As this is a very small piece of specific legislation, we are intending to consolidate these regulations and the necessary amendments into **SCR 2015 – Regulation 29**, to reduce the stock of legislation.

2.43 **Section 9.6.12 of the IA** highlights that industry does not envisage any circumstances where such permissions would be granted by an operator or owner, and so this would have **nil impact on industry**.

Consultation Questions

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| 27. | Do you see any negative consequences of meshing the Offshore Safety Zone Regulations with the SCR 2015? If you do, explain why. |
| 28. | Initial discussions with Industry have indicated that they cannot foresee when they will need to use the new provisions in SCR 2015, 29(g), as all occasions when they will need to allow a vessel to enter the safety zone are covered by the existing regulations. Do you agree? |

Collecting and recording data

2.44 The Directive requires operators/owners to use suitable methods of recording and collecting data that ensures reliability and prevents the possibility of the data being

manipulated. HSE expect that operators and owners will have such methods in place already for safety-related information.

2.45 **Schedule 11(5) of SCR 2015**, outlines the proposed change. **Section 9.6.13 of the IA** highlights that the focus group reported that these methods were already in place and that this requirement would impose no costs on industry.

Consultation Question

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| 29. | Do you agree that the requirement to use suitable methods of recording and collecting data that ensures reliability and prevents the possibility of the data being manipulated would impose no costs on industry? If you do not, explain why. |
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Implementing Act on data reporting criteria and format

2.46 Articles 22 and 23 of the Directive, and Annex IX, indicates that an Implementing Act will be introduced to outline a new offshore data reporting system. This could consist of up to 10 new reporting criteria, and standard formats within which operators and owners would have to notify the CA. There will also be standard formats for the CA to use when preparing Annual Reports to the European Commission and for the CA when making information publically available. As a result of these Implementing Acts, HSE may have to amend its existing legislation (e.g. the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (RIDDOR)) and there may be additional burdens on the CA and Industry in terms of reporting information.

2.47 There is no draft legislation on these changes, as the European Commission are not expected to finalise the Implementing Act until autumn 2014. **Section 9.6.16 of the IA** highlights that industry feedback suggests that the requirement to report under the Implementing Act would be unlikely to impose additional costs as such reports would be routine and incorporated into existing processes for internal reporting, investigations and learning mechanisms.

2.48 However, DECC and HSE consider that additional databases and computer systems would be required by Industry for the management of the new reports in a system parallel to RIDDOR. The **IA** estimates that approximately 30 owners or operators would need to do this and that each would bear costs and this would result in a one-off cost to industry of between around £2 million and £5 million, with a best estimate of around £3.4 million. **Section 9.1.9 of the IA**, outlines the estimated costs to regulators.

Consultation Question

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| 30. | Do you agree with the feed-back to HSE that the requirement to report under the Implementing Act would impose no additional costs as such reports |
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	would be routine and incorporated into existing processes for internal reporting, investigations and learning mechanisms? If you do not agree, please explain why.
31.	Do you agree with the estimated additional costs of establishing the databases and computer systems required to manage the reporting of the additional criteria that are expected under the Implementing Act? If you do not, please explain why.

Preparing and revising standards and good practice

2.49 In principle operators and owners already work in consultation with DECC and HSE, using current information, to produce and revise standards and guidance (e.g. via Step Change and the Offshore Industry Advisory Committee). Article 19(7) of the Directive imposes a requirement on operators and owners to prepare and revise standards and guidance on best practice in relation to the control of major hazards throughout the design and operational lifecycle of offshore oil and gas operations. This must be done in consultation with the CA, making use of the exchanges of knowledge, information and experience and considering the priorities outlined in the Directive.

2.50 DECC and HSE feel that this requirement does not indicate which operators and owners must prepare standards and guidance (in reality only a few would be involved at a given time) and it is not clear what guidance they must produce. Because of this, if we introduced this requirement as worded in the Directive, it would be unenforceable. We feel that the correct way to implement this requirement is to create an obligation encouraging operators and owners to cooperate in producing standards and guidance, and this would be discharged by operators, owners and their representatives continuing to take part in producing guidance in Step Change and other forum. **Regulation 40 of the SCR 2015**, outlines the proposed change.

Consultation Question

32.	Do you support DECC and HSE's proposed approach to implementing this requirement for operators and owners to cooperate in producing standards and guidance? If you do not, explain why.
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Transport of Inspectors offshore

2.51 HSE already has a requirement in the Inspectors and Casualties Regulations (ICR) for duty holders to transport inspectors offshore, provide accommodation and meals etc. The Directive's requirement to transport inspectors is slightly broader than that in the ICR (e.g. it covers transport to a vessel associated with offshore oil and gas operations).

2.52 As Industry already provides transport, accommodation etc to DECC and HSE inspectors, we feel that this duty will impose no additional costs on Industry. Schedule xxx of the SCR 2015 outlines the proposed requirement.

[**Drafting Note** – We are also considering consolidating the remaining small number of requirements in ICR and the Submarine pipeline Regulations into MAR. However, this may not be possible due to the application of the AOGBO.]

Consultation Question

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| 33. | Do you agree that as Industry already transports HSE and DECC inspectors offshore, and provides accommodation and meals when appropriate, that there will be no additional cost to industry from this requirement? If you do not agree, please explain why. |
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Reporting a major accident

2.53 In the UK operators and owners will already formally (e.g. via the reporting requirements in RIDDOR) and informally (by direct contact when a major accident occurs) notify HSE of a major accident. They will also report a major environmental incident, and other releases to the sea, to DECC. Article 30(1) of the Directive requires that all major accidents, or situations where there is an immediate risk of a major accident, are reported to the CA.

2.54 **Regulation 42 of the SCR 2015** outlines this proposed change. As operators and owners are already reporting such requirements, **Section 9.6.10 of the IA** highlights that the additional cost to industry is negligible, and this requirement would impose no cost on industry.

Consultation Question

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| 34. | Do you agree that there are no additional costs to Industry from this reporting requirement? If you do not, explain why. |
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Transitional Arrangements

2.55 The transitional arrangements in Article 42 of the Directive are complex. Analysis of the thorough review dates of non-production and production installations in the UK indicates that the majority of non-production installation safety cases are due to be assessed between April and July 2016. Most of the production installations safety cases need assessment between April and July 2018. These transitional arrangements will make it impossible for the offshore CA to assess and accept safety cases within the specified

timeframes, yet without an accepted safety case an installation cannot legally operate. Because of this, DECC and HSE have been working with Industry to find an acceptable way forward.

2.56 Initial discussions with industry have reached an agreement in principle that operators and owners will book an assessment date with the new CA. This will stagger the work for the CA and will ensure that each operator and owner will meet these transitional arrangements. By entering this agreement with industry, the CA will give a commitment to assess the safety case, and if appropriate accept it, by the agreed deadline.

2.57 During recent open meetings to discuss the implementation of the Directive, industry were concerned that the transitional arrangements relating to well operations would result in most of the existing production installations being captured by the early transitional date of July 2016 (as most do some work to maintain wells etc). To address this issue, we are proposing that reference to operators planning or executing well operations relates to the specific requirements for well operators (e.g. for a well notification or weekly well report), rather than capturing the installation from which these operations are carried out. This will mean that well operations and related duties are only captured by the early transitional dates, not all duties related to the installation (e.g. requiring an accepted safety case).

2.58 Regulation xxx of the SCR 2015 outlines the proposed transitional arrangements.

[Drafting note – HSE and DECC lawyers need to draft these arrangements]

Consultation Question

35.	Do you agree with the transitional arrangements proposed by DECC and HSE? If you do not, explain why.
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Tripartite consultation mechanisms

2.59 Currently the Offshore Industry Advisory Committee (OIAC) acts as the offshore tripartite body for addressing safety issues related to the offshore oil and gas industry. This is a well-established committee where operators, owners, Trade Unions and regulators regularly consult each other on key emerging issues. It is proposed that the Directive's requirement to establish arrangements to enable operators and owners to contribute to effective tripartite consultations can be delivered using OIAC. To achieve this, we suggested that the membership of OIAC, and its terms of reference, might have to be updated to enable environmental as well as safety consultation.

Consultation Question

36. Do you agree with using OIAC to deliver the Directive's requirements for a mechanism for tripartite consultation? If you do not, explain why.

Chapter 3 – Changes to environmental legislation to implement the offshore Directive

3.1 In this Chapter, we outline the changes required to DECC's environmental legislation to implement the Directive. Annex 3 contains a draft of the proposed new environmental legislation.

3.2 DECC proposes to introduce two sets of Regulations. The first, the Offshore Petroleum Activities (Offshore Safety Directive) (Environmental Functions) Regulations 2015, will amend the Merchant Shipping (Oil Pollution Preparedness, Response and Co-operation Convention) Regulations 1998 ("OPRC 1998") and implement other Directive environmental requirements. The second, the Offshore Oil and Gas Licensing (Offshore Safety Directive) Regulations 2015, will implement the changes required by the Directive to the licensing regime.

3.3 In preparing the Impact Assessment a number of assumptions were made regards costs to industry to implement some of the new requirements of the Directive. DECC would welcome further views on those assumptions and additional information to refine them further. The areas where further cost information is requested are referenced in the following sections.

CHANGES TO THE ENVIRONMENTAL REGIME

3.4 The existing environmental legislative regime relating to offshore oil and gas operations is very comprehensive. Following a review of the Articles of the Directive, it was apparent that the majority of the environmental requirements are already met by existing legislation. As a result, apart from amendments to the emergency response legislation contained within OPRC 1998, no other changes to the existing offshore environmental legislation are anticipated.

Oil Pollution Emergency Plans (OPEPs)

3.5 As detailed on page XX, historically, the UK has not asked operators to prepare one emergency response plan covering both environmental and safety arrangements and the Directive does not require that we do so now. In order to minimise the changes to the UK's offshore oil and gas regime and the burden on industry, HSE intend to maintain and adapt the Offshore Installations (Prevention of Fire and Explosion and Emergency Response) Regulations 1995 to meet the safety elements required by the Directive and DECC intend to amend OPRC 1998 to meet the additional environmental requirements required by the Directive. Together these documents will form the Internal Emergency Response Plan and a brief description of the plan will be required in the safety case.

3.6 Many of the Directive requirements in relation to oil spill response are already covered by the existing OPRC Regulations. However, in order to fully align OPRC 1998 with the Directive requirements, we are proposing that they be extended to:

- Include the decommissioning of offshore installations (Recital 24 and Articles 2(3), 11(1)(g); 14 and 28);
- Include owners of non-production installations, who will be required to submit an OPEP for their installations (Articles 11(1) and 14);
- Require operators/owners to include in the OPEP an inventory of oil spill response equipment and an analysis of the oil spill emergency response equipment effectiveness pertinent to their offshore oil and gas operations (Articles 14(1), 19(6) and 28 and Annex I Part 10);
- Include a requirement to undertake a full review and re-submission of an OPEP every 5 years, or following any relevant material change or when directed to undertake such a review by DECC (Article 11(7) and 28(3));
- Require operators to submit an addendum to the installation plan to cover specific well operations or a series of well operations (Article 14(2));
- Require operators to amend their OPEP to take into account any additional risks related to combined operations (Article 14(3));
- Amend the requirement to ‘submit a plan’ to a requirement for every offshore installation to have an approved OPEP prior to the commencement of the offshore oil and gas operations covered by the plan (Articles 11(1)(g), 11(7), 12, 14 and 28 and Annex I Parts 2 and 10);
- Require operators and owners to undertake OPEP exercises and to retain evidence of those exercises (Article 28(2));
- Provide powers to prohibit operations where no OPEP is in place, where the plan is deemed insufficient or where the requirements of the plan are not being met (Article 18);

3.7 Regulations XX of the Offshore Petroleum Activities (Offshore Safety Directive) (Environmental Functions) Regulations 2015 detail the proposed amendments to OPRC 1998 to incorporate the proposed changes.

3.8 In order to assist stakeholders to consider the implications of the changes to the legislation, DECC has proposed approaches to implement some of the new requirements (e.g. the provision of addenda for well operations, the amendment of OPEPs for combined operations and the requirement to provide an inventory of oil spill response equipment and an analysis of the oil spill emergency response equipment effectiveness) – see Annex 4.

Consultation Question	
37.	Do you agree that the proposed legislative changes outlined above are sufficient to transpose the Directive’s environmental requirements in relation to OPEPs? If not, please explain why.

38.	Do you agree with the proposed approaches to the new requirements as detailed at Annex 4, which set out how DECC thinks that that new requirements might work in practice? If not, please explain why.
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The following sections consider the impact of these changes on industry.

OPEPs for decommissioning of offshore installations

3.9 At present, operators are not specifically required under the OPRC Regulations to prepare and submit an OPEP for decommissioning work, although some already do so. Under the Directive, there is a specific requirement for an Internal Emergency Response Plan to be submitted when a fixed production installation is being dismantled.

3.10 Regulation XX of the Offshore Petroleum Activities (Offshore Safety Directive) (Environmental Functions) Regulations 2015 outlines the new requirement. The total estimated costs of implementing this requirement is outlined in **Section 9.7.1.1 of the Impact Assessment (IA)**. This gives a ten-year present value cost to industry of between around £1.3 million and £1.9 million, with a best estimate of around £1.6 million.

3.11 In the IA a number of assumptions were made in relation to the costs – in particular it was estimated that 15 OPEPs pertaining to potential decommissioning operations would be submitted for review each year from 2015 and that a decommissioning OPEP would cost between £10,000 and £15,000 to produce.

Consultation Question

39.	Do you agree that the estimated additional cost of producing decommissioning OPEPs is accurate? If you do not, please explain why.
40.	Do you have any views on the likely pace of decommissioning work over the next ten years? If you do, please provide details.

OPEPs for Production Installations

3.12 Existing OPEPs satisfy the vast majority of the Directive requirements. However, there are a number of additional requirements including an analysis of the oil spill response equipment effectiveness and a complete inventory of oil spill emergency response equipment pertinent to their offshore oil and gas operations. Regulations xx of the Offshore Petroleum Activities (Offshore Safety Directive) (Environmental Functions) Regulations 2015 detail the new requirements. As a result:

- All existing OPEPs will need to be revised and resubmitted to take account of the additional requirements by 2018;
- All OPEPs for new production installations will need to include the additional requirements from 2015; and
- All OPEPs will also need to be submitted for a 5-year review during the period up to 2024.

3.13 **Section 9.7.1.2 of the IA** outlines the total estimated costs of these requirements. This gives a total ten-year present value cost to industry of between around £1.3 million and £1.6 million, with a best estimate of around £1.4 million.

3.14 Key facts and assumptions in determining the costs related to the 5-yearly reviews were as follows:

- There are currently 101 existing OPEPs. Based on the rate of new developments over recent years, DECC estimated that there would be around 40 OPEPs required for new production installations between 2015 and 2024. Taking into account installations which might be fully decommissioned during the period, it was considered that a total of 111 OPEPs would need to be reviewed once during the ten-year period.
- Based on their experience of reviewing existing OPEPs, the cost to industry of submitting an OPEP for 5 year review was estimated to be approximately £2,500 for each OPEP.

Consultation Question

41.	Do you agree that the estimated additional cost of producing and maintaining OPEPs for production installations is accurate? If you do not, please explain why.
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OPEPs for Non-Production Installations

3.15 Currently, OPRC 1998 do not require owners of non-production installations to produce and submit OPEPs. Under the Directive, there is a new requirement for them to produce an Internal Emergency Response Plan, which would include an OPEP. DECC's proposed approach to managing this requirement is outlined at Annex 4 and, as requested at question 38 above, comments are sought on the proposed approach to implementation.

3.16 Regulation XX of the Offshore Petroleum Activities (Offshore Safety Directive) (Environmental Functions) Regulations 2015 outlines the new requirement. As a result:

- All existing non-production installations operating on the UKCS will need to prepare and submit an OPEP by 2016;
- All new non-production installations operating on the UKCS will be required to prepare and submit an OPEP from 2015; and

- All OPEPs for non-production installations will also need to be submitted for a 5-year review during the period up to 2024.

3.17 **Section 9.7.1.3 of the IA** outlines the total estimated costs of these requirements. This gives a total ten-year present value cost to industry of between around £846 thousand and £1.2 million, with a best estimate of around £1.1 million.

3.18 Key facts and assumptions in determining these costs were as follows:

- There are currently 40 non-production installation operating on the UKCS;
- It was estimated that there are likely to be around 5 new non-production installations operating on the UKCS each year between 2015 and 2024;
- The industry focus group estimated the cost of producing an OPEP for a non-production installation as being between £10,000 and £15,000. However, this was based on the assumption that OPEPs for non-production installations would be required to satisfy not only the Directive requirements, but also the OPRC 1998 requirements. Owners of non-production installations will not be required to produce OPEPs which satisfy the OPRC 1998 requirements as this is considered to be gold-plating.
- 65 OPEPs for non-production installations will require to be reviewed between 2020 and 2024.
- Based on their experience of reviewing existing OPEPs, the cost to industry of submitting an OPEP for a non-production installation for 5 year review was estimated to be between £1000 and £1500 for each OPEP.

Consultation Question

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| 42. | Do you agree that the estimated additional cost of producing and maintaining OPEPs for non-production installations is accurate? If you do not, please explain why. |
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Submission of an addendum to cover specific well operations

3.19 In accordance with DECC guidance, Operators already submit addenda to cover platform well operations. However, there will now be a legal requirement to do so for both platform and non-production installation well operations. The addenda will also need to take account of the requirements for new information as required by the Directive.

3.20 Regulation XX of the Offshore Petroleum Activities (Offshore Safety Directive) (Environmental Functions) Regulations 2015 outlines the new requirement. The total estimated costs of implementing this requirement is outlined in **Section 9.7.1.4 of the IA** and gives a ten year present value cost to industry of between around £3.6 million and £25.8 million with a **best estimate of £14.7 million**.

Consultation Question

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| 43. | Do you agree that the estimated additional cost of producing an addendum for well operations is accurate? If you do not, please explain why. |
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Amendment of operators' OPEPs for combined operations

3.21 In accordance with DECC guidance, Operators already amend their OPEPs if a non-production installation is to be used for carrying out combined operations. There will be a new legal requirement to do so.

3.22 Regulation XX of the Offshore Petroleum Activities (Offshore Safety Directive) (Environmental Functions) Regulations 2015 outlines the new requirement. The total estimated costs of implementing this requirement is outlined in **Section 9.7.1.4 of the IA**. This gives a ten year present value cost to industry of between around £1.7 million and £3.4 million with a **best estimate of £2.6 million**.

Consultation Question

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| 44. | Do you agree that the estimated additional cost of amending an OPEP to cover combined operations is accurate? If you do not, please explain why. |
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New requirements which are not considered to have any cost implications

3.23 As detailed in **Sections 9.7.1.5 and 9.7.1.6 of the IA**, several of the new requirements put provisions in place, which are not anticipated to result in any additional costs to industry.

3.24 As part of the Directive's obligations to produce an Internal Emergency Response Plan, the new Regulations will specify that the OPEP must be approved before operations commence. However, operators and owners do not currently commence operations before an OPEP is approved and it is not anticipated that they would do so in the future. As a result no additional costs have been estimated as a result of this provision.

3.25 The Directive also requires operators and owners to carry out exercises to maintain relevant preparedness for the implementation of the Internal Emergency Response Plan and potential interaction with the external emergency response plan, and to retain evidence of those exercises. Operators and owners are already required to carry out OPEP exercises in accordance with DECC guidance. The requirement for retention of evidence of exercises is considered to be negligible as most, if not all, operators do this already.

3.26 Finally, the Directive makes provision for powers to prohibit operations where no OPEP is in place, where the plan is deemed insufficient or where the requirements of the plan are not being met. To date, DECC has never delayed or prohibited an oil and gas operation as a result of an operator not having an OPEP or one that does not meet the OPRC 1998 requirements. In future, the requirements of the Directive and the link between the Internal Emergency Response Plan and the safety case mean that it will be virtually impossible for any operator or owner to undertake operations without an approved OPEP. Therefore, DECC does not anticipate any additional costs to industry as this simply introduces a legal requirement to do what operators are already expected to do.

Consultation Question

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| 45. | Do you agree that the requirements: to have an approved OPEP before operations commences; to carry out OPEP exercises and retain evidence of those exercises; and the provision for powers to prohibit operations where no OPEP is in place, where the plan is deemed insufficient or where the requirements of the plan are not being met will not result in any additional costs to industry? If you do not, please explain why. |
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Environmental Management Systems (EMS)

3.27 There are no requirements regarding EMSs in the current environmental legislative regime. However, OSPAR Convention Recommendation 2003/5 requires Contracting Parties to 'Promote the Use and Implementation of Environmental Management Systems by the Offshore Industry', and this Recommendation was implemented in the UK through voluntary agreement based on guidance issued by DECC. For Traditional and Frontier Seaward Production Licences, including continuations of Promote Licences, the Department will not award a licence in response to any application that is not supported by an EMS that satisfies the guidance, or where the applicant does not provide a commitment to produce one before they plan, develop and undertake any offshore operations.

3.28 The current arrangements do not fully satisfy the Directive requirements relating to Safety and Environmental Management Systems (SEMSs). To ensure full alignment with the provisions of the Directive, a number of requirements pertaining to EMS are proposed in the new Regulations:

- A requirement for every relevant offshore operator and owner to have an EMS prior to the commencement of operations (Articles 11(1)(b) and Annex I, Part 9);
- A requirement for operators and owners to have an EMS which satisfies the relevant requirements of the Directive⁴ (Articles 19(3) and 19(5) and Annex I, Part 9);

⁴ Operators will also be required to continue to satisfy the requirements of OSPAR Convention Recommendation 2003/5

- A requirement for operators and owners to submit an EMS (or a description of an EMS) to DECC for acceptance prior to the commencement of operations (Article);
- A requirement for operators and owners to undertake a full review of the EMS, and to re-submit the EMS (or an adequate description) to DECC for acceptance following any relevant material change, or when directed to undertake such a review by DECC (Article 12(5)); and
- A requirement to amend / change a submitted EMS (or a description of EMS) when directed by DECC should the EMS be considered inappropriate for any reason (Articles 12(4) and 13(3)).

3.29 Regulations XX of the Offshore Petroleum Activities (Offshore Safety Directive) (Environmental Functions) Regulations 2015 detail the proposed requirements Annex 4 provides further information on DECC’s proposed approach to implementing these requirements and, as requested, at question 38, comments are sought on the proposed approach.

Consultation Question	
46.	Do you agree that the proposed legislative changes outlined above are sufficient to transpose the Directive’s environmental requirements in relation to SEMs? If not, please explain why.

The following sections consider the impact of these changes on industry.

Amending EMS for decommissioning operations

3.30 At present all existing operators of production installations have an EMS. However, under the new Directive, operators will be required to amend their SEMs to specifically address issues relating to decommissioning activities.

3.31 Regulation XX of the Offshore Petroleum Activities (Offshore Safety Directive) (Environmental Functions) Regulations 2015 details the new requirement. The total estimated costs of implementing this requirement is outlined in **Section 9.7.2.1 of the IA**

3.32 This gives a **ten year present value cost to industry** of between around £194 thousand and £258 thousand with a best estimate of £226 thousand.

3.33 Key facts and assumptions in determining these costs were as follows:

- There will be 15 EMSs for decommissioning operations submitted each year between 2015 and 2024; and
- The cost of adjusting the EMS to take account of the environmental sensitivities relating to decommissioning activities is likely to be in the region of £1500 to £2000.

Consultation Question

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| 47. | Do you agree that the estimated costs of amending an EMS to take account of the environmental requirements is accurate? If not, please explain why. |
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Amendments to existing EMSs for operators of Production Installations

3.34 The Directive requires that operators and owners shall prepare a document setting out their safety and environmental management system. This should include a description of the: organisational arrangements for control of major hazards; arrangements for preparing and submitting reports on major hazards, and other documents as appropriate, and schemes for independent verification.

3.35 Operators of production installations who currently have an EMS will need to update them to bring them in line with the Directive.

3.36 Regulations xx of the Offshore Petroleum Activities (Offshore Safety Directive) (Environmental Functions) Regulations 2015 detail the new requirements. **Section 9.7.2.2 of the IA** estimates the ten-year present value cost to industry of amending existing EMSs during the transition period of between £79.8 thousand and £106.5 thousand with a best estimate of £93.2 thousand.

3.37 Key facts and assumptions in determining these costs were as follows:

- EMSs are operator specific systems that cover all the offshore exploration and production operations undertaken by the operator. One EMS will therefore cover a range of fields and production installations. There are currently 57 operators with EMSs.
- The industry focus group estimated that an EMS costs between £15,000 and £20,000 per installation to maintain/update. Based on the minor additional requirements for the EMS under the Directive we have assumed that the cost of adjusting the existing EMS to add the information required by the Directive will be 10% of the total cost, giving a best estimate of £1500 to £2000 per EMS.

Consultation Question

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| 48. | Do you agree that the estimated additional costs to ensure that EMSs fully satisfy the requirements of the Directive are accurate? If you do not, please explain why. |
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EMSs for new production operators

3.38 New operators will be required to prepare an EMS There are 5 to 6 new operators established during each biannual offshore licensing round, but they will only require an EMS prior to undertaking offshore operations. Nevertheless, DECC expects 2 new EMSs on average to be created each year from 2015 to 2024.

3.39 Regulations xx of the Offshore Petroleum Activities (Offshore Safety Directive) (Environmental Functions) Regulations 2015 detail the new requirements. **Section 9.7.2.3 of the IA** estimates the ten-year present value cost to industry of producing new EMSs during the period from 2015 to 2024 as being between £25.8 thousand and £34.4 thousand with a best estimate of £30.1 thousand.

3.40 The industry focus group estimated that an EMS costs between £15,000 and £20,000 per installation to maintain/update. Based on the minor additional requirements for the EMS under the Directive we have assumed that the cost of including the additional information required by the Directive is 10% of the total cost, giving a best estimate of £1500 to £2000 per EMS.

Consultation Question

49.	Do you agree that the estimated additional costs to ensure that new EMSs fully satisfy the requirements of the Directive are accurate? If you do not, please explain why.
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EMSs for Owners of Non-Production Installations

3.41 Owners of non-production installations are not currently required to have an EMS as owners are not covered by OSPAR Recommendation 2003/5. However, from 2015 they will be required to do so to satisfy the Directive requirements relating to safety and environmental management systems.

3.42 Regulations xx of the Offshore Petroleum Activities (Offshore Safety Directive) (Environmental Functions) Regulations 2015 detail the new requirements. **Section 9.7.2.4 of the IA** estimates the cost to industry of producing new EMSs during the period from 2015 to 2016 as being between £29.5 thousand and £39.3 thousand with a best estimate of £34.4 thousand.

3.43 The key facts and assumptions in determining these costs were as follows:

- There are 40 non-production installations owned by 20 non-production companies and each company will have to submit their EMS (or an adequate description of their EMS) for acceptance during the period 2015 to 2016;
- The focus group and further discussions with industry confirmed that the vast majority of non-production installation owners already have an existing EMS; and

- The industry focus group estimated that an EMS costs between £15,000 and £20,000 per installation to maintain/update. Based on the minor additional requirements for the EMS under the Directive we have assumed that the cost of including the additional information required by the Directive is 10% of the total cost, giving a best estimate of £1500 to £2000 per EMS.

3.44 Although the focus group considered that the vast majority of non-production installation owners would already have an EMS, it is possible that 1 or 2 may not. The focus group therefore estimated a £150,000 one-off cost to create an EMS. However, this may be an overestimate as industry was anticipating that an owner's EMS would need to satisfy both the OSPAR and Directive requirements, and this is not the case as the owners of non-production installations will only be required to satisfy the EMS requirements of the Directive. Should it be the case that there are 1 or 2 companies that do not have an EMS, the ten year present value cost to industry of creating an EMS is estimated at between £145 thousand and £290 thousand with a **best estimate of £217 thousand**.

Consultation Question	
50.	Do you agree that the majority of owners of non-production installations already have an EMS? If you do not, please explain why.
51.	Do you agree that the estimated additional costs to ensure that EMSs held by owners of non-production installations fully satisfy the requirements of the Directive are accurate? If you do not, please explain why.
52.	Bearing in mind the assumptions detailed above, do you agree that the estimated additional costs of producing EMSs for those owners who do not currently have an EMS are accurate? If you do not, please explain why.

Review of EMSs

3.45 The Directive requires operators and owners to undertake a full review of their EMSs following any relevant material change or when directed to undertake such a review by DECC (Article 12(5)).

3.46 Regulations xx of the Offshore Petroleum Activities (Offshore Safety Directive) (Environmental Functions) Regulations 2015 detail the new requirements. **Section 9.7.2.5 of the IA** estimates the ten-year present value cost to industry of preparing and submitting EMSs for review during the period from 2020 to 2024 is between £227 thousand and £303 thousand with a best estimate of around £265 thousand.

3.47 Key facts and assumptions in determining these costs were as follows:

- A cost of £3,750 to £5,000 was considered appropriate to meet the additional requirements for the review of EMSs under the Directive. A review period of 5 years has been adopted in line with current review requirements for OPEPs and safety cases. It was assumed that it was unlikely that there would be a material change to force an early review and, as a result, there would be one 5-yearly review for each production and non-production installation EMS (77 in total) during the period 2020 to 2024.

Consultation Question	
53.	Do you agree that it is unlikely that a material change would force an early review of an EMS?
54.	Do you agree that the estimated additional cost to submit EMSs for review is accurate? If you do not, please explain why.

Financial Liability Arrangements

3.48 Operators undertaking well operations using a Mobile Drilling Unit (MoDU) are currently required to provide evidence of financial liability arrangements, to ensure that sufficient funds or indemnity provisions are available to cover both first party costs (well control) and third party costs (caused by pollution damage), associated with an oil pollution incident. This requirement is currently linked to the legal requirement to prepare and implement an OPEP as detailed in OPRC 1998. If the required financial arrangements are not in place, DECC would take the view that the operator had not demonstrated that the provisions of the OPEP could be fully implemented, so approval of the OPEP would be withheld.

3.49 The Directive requires that appropriate financial provisions are taken into account when assessing applicants for licences or for different stages of operatorship (Article 7). The new regulations will therefore include powers to require details of financial liability arrangements. As operators are already providing evidence of financial liability for exploration and appraisal wells, the additional costs as a result of the Directive will be for development wells.

3.50 Regulations xx of the Offshore Petroleum Activities (Offshore Safety Directive) (Environmental Functions) Regulations 2015 detail the new requirements. **Section 9.7.3 of the IA** estimates the ten-year present value cost to industry for providing evidence of financial liability during the period 2015-24 is between £559 thousand and £3.4 million with a best estimate of around £2 million.

Consultation Question	
55.	Do you agree that the estimated additional costs to provide evidence of financial liability are accurate? If you do not, please explain why.

CHANGES TO THE LICENSING REGIME

3.51 Before awarding a Seaward Production Licence, DECC currently checks the applicant's financial capacity and viability, and technical and environmental competence of the proposed operator. Each Licence provides that it may not be assigned, and an operator cannot be appointed, without the prior approval of DECC; and, when a licensee seeks approval for an assignment or the appointment of a new operator, DECC repeats such of the checks as are appropriate. These are essentially the same procedures as are required by the Directive, so no fundamentally new procedures are needed. However, there will be minor adjustments.

3.52 DECC will implement the following minor amendments, through the Offshore Oil and Gas Licensing (Offshore Safety Directive) Regulations 2015:

- The requirement for an approved operator will be extended to decommissioning operations;
- Positive approval of an operator under the licence will substitute for the passive non-objection required under the Directive;
- A 100% licensee will be required to appoint himself as operator, subject to the Licensing Authority's veto;
- Operatorship will survive the end of a licence;
- The licensee will be required to ensure: that operations take place only in licensed areas and only by the approved operator; that they have provision to cover liabilities arising under the Directive; that the operator has the capacity to meet the Directive's requirements; and that the operator does so;
- Revocation of operator approval can be initiated by the Competent Authority, the Licensing Authority must implement it and the licensee must propose a new operator;
- The Licensing Authority can require information relating to compliance; and
- Breach of the Directive is to be made grounds for revocation of the licence.

3.53 There will also be a number of additional criteria for the Licensing Authority to take account of (in consultation with the Competent Authority) when considering licence

awards and transfers, and applicants will have to provide information to support their applications in these respects (some of which will be additional to what has been required before):

- The risk, the hazards and any other relevant information relating to the licensed area concerned, including, where appropriate, the cost of degradation of the marine environment referred to in point (c) of Article 8(1) of Directive 2008/56/EC;
- The particular stage of offshore oil and gas operations;
- The Applicant's financial capabilities, including any financial security, to cover liabilities potentially deriving from the offshore oil and gas operations in question including liability for potential economic damages;
- The available information relating to the safety and environmental performance of the Applicant, including in relation to major accidents, as may be appropriate to the operations for which the Licence was requested; and
- Any environmentally sensitive marine and coastal environments, in particular ecosystems which play an important role in mitigation and adaptation to climate change, such as salt marshes and sea grass beds, and marine protected areas, such as special areas of conservation pursuant to the Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora, special protection areas pursuant to the Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds, and areas that are designated as marine protected areas within the framework of any international or regional agreement entered into by the European Union or the United Kingdom.

3.54 The Directive requires Member States to impose a new duty on licensees to ensure that the operator has the capacity to meet its obligations, and that it actually does so as detailed above. This will only constitute a legal duty to do what DECC expects every responsible licensee to be doing already and, as such, it is not considered to represent a new burden on industry. However, a question has been raised in relation to operators who are 'legacy' companies. DECC are proposing that in these cases a formal letter will be developed confirming that the operator is part of a company group and that a named company within that group will be undertaking/managing all operations proposed under authority of the licence on behalf of the legacy company.

3.55 The existing Model Clause that deals with operatorship provides that the licensee may not allow an operator to act as such without the prior approval of the Secretary of State. The Directive, however, requires only that the Licensing Authority should have a power to object to the appointment of an operator after the event. That would be a less robust system, and being less robust would support the Directive's objectives less well and DECC could not implement it without amending all existing licences (with or

without the licensee's agreement). In those special cases where implementation will require the creation of new operatorship provisions, DECC will do so without gold-plating (i.e. it will give the Licensing Authority a right of objection after the event). In those cases where licences already implement satisfactory operatorship provisions, it is most reasonable (and most consistent with the Directive's objectives) to leave them as they are, even though to do so counts as gold-plating. However, as it maintains the current standard, it poses no additional burden.

Consultation Question	
56.	Do you agree that the proposed legislative changes outlined above are sufficient to transpose the Directive's licensing requirements? If not, please explain why.
57.	Do you agree that these changes are minimal and will not result in any significant additional costs for industry?

Chapter 4 – Implementing the national emergency response plans and emergency preparedness provisions of the Directive

4.1 With respect to the national emergency response plans and emergency preparedness provisions of the Directive, it is considered that existing UK legislation and guidance meets those requirements.

External emergency response plans and emergency preparedness

4.2 It is considered for the purposes of Articles 29 that the existing UK legislation and guidance meets the requirements of the Directive.

4.3 Article 29 (1) and (2) require Member States to prepare an external emergency response plan covering all offshore oil and gas installations. Central Government considers that the National Contingency Plan (NCP) for dealing with marine pollution from ships and offshore installations and the Integrated Offshore Emergency Response Plan (IOER) fulfil this requirement in the United Kingdom.

4.4 Civil maritime and aviation search and rescue is derived from the UK Government's adherence to the Convention on the Law of the Sea (UNCLOS), the Convention on Safety of Life at Sea (SOLAS)(1974), the Maritime Search and Rescue Convention (1979) and the Convention on International Civil Aviation (Chicago 1944) (Annex 12). The UK responsibility for Search and Rescue measures for ships, aircraft and persons, whether military or civil, covers the UK SAR Region. The IOER details the procedures and guidance.

4.5 SAR exercises between the oil and gas industry and HMCG SAR coordination centres occur on a weekly basis. Many such exercises are 'table-top' and 'coordination' exercises that do not deploy resources ashore or undertake live activities, but test and simulate the activities, processes and procedures for emergency response. Offshore, platform personnel often undertake 'live' exercise activities during these events. The UK oil and gas industry also attend training courses and seminars which the Maritime and Coastguard Agency run to familiarise the relevant offshore personnel with procedures and processes to be followed in an emergency. Nine of these training and awareness events are programmed to be delivered this year (2014). The MCA SAR coordination centre at Aberdeen also reviews the emergency response exercise plans and exercises of the offshore training organisations to ensure a degree of realism and currency in the exercise activities.

4.6 The NCP makes it clear that all exploration and production activities that could give rise to an oil pollution incident in the United Kingdom Pollution Control Zone or on the United Kingdom Continental Shelf must be covered by an Oil Pollution Emergency Plan (OPEP). The Offshore Installations (Prevention of Fire and Explosion, and Emergency Response) Regulations 1995 (PFEER) contribute to the Internal Emergency Response Plan. PFEER defines goals for the preventive and protective measures necessary for managing fire and explosion hazards, and for emergency response. These goals allow duty holders the flexibility to develop detailed arrangements for each stage of an installation's life cycle. PFEER includes requirements for the prevention, detection, control and mitigation of fire and explosion. It requires arrangements for detecting and responding to other emergencies, such as loss of stability, ship collision, and helicopter ditching near an installation, although there is no requirement to prevent such occurrences. It covers major accident and other hazards, although the assessment provisions are confined to the former.

4.7 OPEPs are required under Regulation 4 (1)(c) to The Merchant Shipping (Oil Pollution Preparedness, Response and Co-operation Convention) Regulations 1998, approved by the DECC and reviewed on a regular basis, namely, every five years or within three months of any substantial change being required

4.8 The OPEP is a fit for purpose operational document that sets out the procedures for responding to offshore oil pollution incidents, including the shoreline clean up, in an effective and efficient manner, and is required by Regulation 6 to the OPRC Regulations 1998 to be in line and co-ordinated with the policies and principles of the UK's NCP.

4.9 In the UK, it is custom and practice that where any human life is at risk, Search and Rescue activities are the priority in the early stages of any offshore installation emergency. However, relevant counter pollution response is always alerted as soon as possible once an emergency is underway. In the UK the counter pollution preparation and early deployment activities can be managed whilst SAR is on-going. Once SAR is declared as completed, the counter pollution response can move in and take primacy. Early notification and deployment of counter pollution resources and personnel means that this can happen very promptly.

4.10 Article 29 (3) requires the external emergency response plan to be prepared in accordance with Annex VII to the Directive. It is considered that the information and guidance contained in the NCP and IOER meet the requirements of the Annex and that their publication on the Maritime and Coastguard Agency's website will meet the requirement of making the external plan available to all.

4.11 In complying with Article 29(4), the UK is party to several international agreements which provide for co-operation in dealing with major search and rescue or marine pollution incidents.

- OPRC Convention
- The Bonn Agreement

- Anglo-French Joint Maritime Contingency Plan (Mancheplan)
- The Norway-United Kingdom Joint Contingency Plan (Norbrit Agreement)
- UK/Ireland Agreement
- Anglo/Isle of Man Operating Agreement
- Faroe Islands – Local Agreement of Mutual Support (LAMS)
- EU Consultative Technical Group for Marine Pollution Preparedness and Response
- European Maritime Safety Agency (EMSA)
- Overseas Territories

4.12 Article 29 (5) necessitates the keeping of records of emergency response equipment in accordance with Annex VIII point 1 to the Directive. With regard to marine pollution, the operational sections to the NCP address the majority of points. In addition, national pollution response assets are controlled by the MCA who maintain an inventory. These assets are monitored and audited annually by the MCA. An inventory of industry owned-equipment is maintained by Oil Spill Response Ltd.

4.13 Maritime and aviation SAR is mandated in the UK by virtue of the government’s acceptance/ratification of the relevant international conventions on SAR e.g.

- Convention on the High Seas 1958
- International Convention on Maritime Search and Rescue 1979
- International Convention on Safety of Life at Sea 1974
- ICAO Annex 12
- United Nations Convention on the Law of the Sea

4.14 DECC, in its guidance, requires that their Oil Pollution Emergency Plans are exercised regularly. In addition, NCP offshore industry related exercises are held every three years.

4.15 HM Coastguard undertakes regular exercises with the offshore oil and gas industry, and the police and medical services as required. Regular training and awareness seminars and courses are also provided by the Maritime and Coastguard Agency (as described above).

Consultation Questions	
58.	Do you agree that the National Contingency Plan (NCP) for dealing with marine pollution from ships and offshore installations and the Integrated Offshore Emergency Response (IEOR) Plan together constitute the external emergency response plan for the United Kingdom? If you do not, please explain why.
59.	Do you agree that the NCP and IOER meet the requirements of Annex VII? If

	you do not, please explain why.
60.	Do you agree that the international agreements entered in to by the United Kingdom meet the requirement of Article 29(4)? If you do not, please explain why.
61.	Do you agree that the inventories maintained by the MCA and OSRL and the operational instructions in the NCP meet the requirements of Annex VIII point 1? If not, please explain why.
62.	SAR resources in the UK are well established and maintained and are available for response to any maritime emergency. The oil and gas industries provide resources of their own that are, or can, provide emergency response when required. On this basis, do you agree that the UK's SAR resources are sufficient? If not, please explain why.
63.	Do you consider that the current exercise regime meet the requirements of Article 29 (6) and (7)? If not, please explain why.

Emergency response

4.16 Article 30 is also considered to be addressed by the current UK legislation.

4.17 Regulation 5 of OPRC 1998⁵ requires an offshore installation to report a release of oil to sea to the MCA and the Department for Energy and Climate Change within six hours via the electronic Petroleum Operation Notice 1.

4.18 Oil and gas operators are required to deal with any incident using their own equipment and personnel. The co-ordination of any response effort remains the responsibility of the operator although the MCA oversees the response on behalf of the United Kingdom and may supply support, under their control, if it is considered that the operator's resources may be overwhelmed.

4.19 Finally, through the NCP, the MCA will keep records of incidents for the purposes of liability, compensation and costs recovery.

⁵ <http://www.legislation.gov.uk/ukxi/1998/1056/regulation/5/made>

4.20 SAR response is cooperative: the statutory services and shore based response organisations react and offshore industry resources also provide capabilities e.g. standby, emergency response and supply vessels and offshore SAR helicopter capabilities. HM Coastguard has well developed emergency response procedures (agreed with the offshore industry) within its Operational management System (OmS) which provides Standard Operating Procedures (SOP) for response to offshore installations and facilities emergencies.

Consultation Questions	
64.	Do you agree that Regulation 5 to OPRC 1998 meets the requirements of Article 30 (1)? If not, please explain why.
65.	Do you agree that the United Kingdom already meets the requirements of Article 30 (2) and (3)? If not, please explain why.
66.	Do you agree that as a result of the requirements of the Directive already being met for Articles 29 and 30 that there are no policy changes that will lead to costs or savings for business, public or civil society organisations, regulators or consumers? If not, please provide details.

Chapter 5 – Updates to health and safety legislation to address operational lessons and emerging energy technologies

5.1 In this Chapter, we outline the changes required to the HSE's health and safety legislation to implement the operational lessons learnt from applying our offshore oil and gas regime over the last ten years. We are also suggesting some amendments to our offshore and onshore oil and gas health and safety legislation to ensure that relevant emerging energy technologies (e.g. underground coal gasification) are also within the scope of our oil and gas regulations. Finally, we highlight our proposal to reduce the current stock of offshore oil and gas regulations by consolidating some sets of regulations, with only a few requirements, into other sets of offshore oil and gas regulations.

Updating the definition of offshore installation

5.2 In April 2013, HSE introduced the Health and Safety at Work etc. Act 1974 (Application Outside Great Britain) Order 2013. In this Order, the definition of offshore installation was updated to give legal clarity that vessels whose primary purpose is accommodation, or those undertaking activities that involved mechanically entering the pressure containment boundary of a well, fell within the scope of this definition.

5.3 At this time, HSE also recognised that if an offshore installation was ever used for other purposes, these would likely be related to oil and gas activities (e.g. used as helicopter bases). When such installations came to the end of their life, HSE would want to ensure that it could still regulate future high risk decommissioning and demolition activities associated with such installations using its offshore major hazard regulations. HSE therefore removed the exclusion of structures "which has ceased to be used for any of the purpose specified", from the Order. This was to ensure that all activities in relation to a non-mobile structure which was formally an offshore installation, continued to be covered by the Order.

5.4 For consistency, and to ensure health and safety standards are maintained when high risk decommissioning and dismantling activities on offshore installations occur, HSE is now proposing to make the same changes to the definition of the offshore installation in the Offshore Installations and Pipeline Works (Management and Administrative) Regulations 1995 (MAR). **Schedule XXX of the SCR 2015** details the proposed changes

5.5 These proposed changes will only clarify what structures are offshore installations, and ensure that an existing offshore installation would remain an offshore installation under HSE's offshore major hazard legislation for its whole life cycle, including decommissioning

and dismantling, irrespective of whether it has been used for another purpose prior to decommissioning and dismantling. **Section 9.11.1 of the IA** highlights that there are no additional costs to industry associated with this change.

Consultation Questions	
67.	Can you think of any situation where an offshore installation would ever be used for anything other than activities connected with those outlined within the definition of an offshore installation in AOGBO and MAR?
68.	Do you think that HSE needs to take these steps to ensure that it can continue to regulate high risk decommissioning and dismantling activities associated with offshore installations, that had been used for other purposes, using its offshore major hazard regulations?

Identifying an operator when there is no licensee

5.6 To ensure that the highest safety standards are maintained during the high risk decommissioning and dismantling operations associated with offshore installations and wells, HSE propose that the definition of operator is changed across HSE's offshore oil and gas regulations (e.g. SCR and MAR). DECC legislative amendments (**see Chapter 3, Section xxx**), will give legal certainty about who is the operator when a Petroleum Licence holder is not in place (e.g. as it has been revoked, relinquished or expired). The amendments we propose to make to the offshore health and safety legislation will complement this new approach.

5.7 Under HSE legislation, the operator of the production installation submits a decommissioning safety case and the operator of the well prepares a well notification, which outline how decommissioning operations will be performed safely. HSE will tell DECC if they have any concerns in relation to the planned decommissioning work before DECC issue consent. DECC has indicated to HSE that some licenses for offshore installations and wells will not be renewed. Under HSE legislation, it is the licensee who appoints the operator of the production installation or the operator of the well. This will mean that as there will not be an appointed operator in place, HSE may not receive a decommissioning safety case or well notification to consider. This issue was brought to HSE and DECC's attention when the first well, where a licence was no longer in place, was considered for decommissioning.

5.8 The proposed amendments will ensure that an operator can still be identified for well abandonment and offshore installation decommissioning operations when a licensee is not in place. This could happen when a licence is revoked, relinquished or expires.

5.9 The proposed changes are detailed in **Schedule XX of the SCR 2015**. These proposals will only maintain HSE's jurisdiction to regulate such work activities on offshore installations and wells when a petroleum licence is not in place, and **Section 9.11.2 of the IA** highlights that there are no additional costs to industry associated with these amendments.

[Drafting Note – HSE solicitors cannot draft until we have seen DECC licensing proposals in relation to decommissioning]

Consultation Question	
69.	Does the proposed definition of operator help to identify the correct responsible body when a petroleum or gas importation and storage licence is not in place? If not, please explain why.

Underground coal gasification (UCG)

5.10 Hydrocarbons are defined as 'conventional' or 'unconventional' depending on the type of rock they are found in. 'Conventional' oil and gas refers to hydrocarbons extracted from sandstone or limestone. 'Unconventional' gas and oil refers to hydrocarbons produced from shale, tight sands, or coals.

5.11 UCG is a gasification process carried out *in-situ* within non-mined coal seams. Oxidants are injected into the seam and the resulting gas is brought to the surface through production wells. The process can be applied to coal in seams that are otherwise unprofitable or too complicated to extract by traditional mining methods. Although exploration licenses have been issued in the UK, pilots are yet to begin.

5.12 HSE uses two specific pieces of legislation to regulate onshore Unconventional gas activities (e.g. shale gas and CBM operations). The Boreholes Sites and Operations Regulations 1995 (BSOR) are primarily concerned with the health and safety management of the site, whilst the Offshore Installations and Wells (Design and Construction, etc) Regulations 1996 (DCR) apply to all wells drilled with a view to the extraction of petroleum, regardless of whether they are onshore or offshore. These regulations are primarily concerned with well integrity. There is some legal doubt whether UCG is covered by the above legislation, but UCG is covered by the Health and Safety at Work etc Act 1974 (HSWA).

5.13 Recent experience of the political and public interest in shale gas, has resulted in a great deal of scrutiny of HSE's onshore oil and gas major hazard legal framework. The requirements contained within our onshore major hazard legislation have been seen as broadly sufficient to regulate health and safety. However, we are not in such a strong position for UCG. This activity is out of scope of our onshore major hazard legislation. As the first UCG pilot is expected to start onshore in 3-5 years (the Coal Authority does not

anticipate an offshore project, if at all, within the next ten years), HSE (with support from DECC and the Coal Authority) is proposing to bring UCG within the scope of HSE's onshore oil and gas major hazard regime.

5.14 It is proposed that the definition of petroleum in DCR is amended to include Syngas (the product of UCG). For BSOR, the definition of a borehole operation will be updated, as well as clarifying that UCG are covered by the notification requirements in Regulation 6(1) of BSOR. **Schedule XX, Paragraph XXX** of the SCR 2015 details the proposed changes. **Section 9.11.3 of the IA**, gives an estimated present value cost to industry over ten years of between £367 thousand and £448 thousand, with a best estimate of around £408 thousand.

5.15 These proposals give HSE the jurisdiction to regulate onshore UCG work activities using its onshore major hazard legislation.

[Drafting Note – HSE solicitors have not yet drafted these proposals]

Consultation Question	
70.	Do you agree with HSE that, as UCG pilots are due to start in the next 3-5 years, it is important to act now to ensure onshore oil and gas major hazard regulations are updated to include this activity? If you do not agree, then please explain why.
71.	Do you agree with the estimated cost to industry of complying with the onshore major hazard regime when undertaking this work activity? If you do not, please explain why.

Onshore combustible gas storage and recovery

5.16 Natural gas storage and recovery activities have been taking place in the UK for many years in depleted oil and gas reservoirs both onshore and offshore. These are usually filled with natural gas through a borehole, which is designed and constructed to standards similar to those used for onshore and offshore gas extraction wells. The storage of hydrocarbon gas is likely to grow in the coming years as the need increases to store such gas when it is available in the summer, for recovery when it is required in the winter. There are three possible scenarios for offshore hydrocarbon gas storage and recovery:

- In depleted and partially depleted hydrocarbon fields - such activities have been taking place onshore and offshore for many years;

- Using naturally occurring geological formations that do not include petroleum (e.g. chalk) - this approach is still under development; and
- In solution mined salt caverns (currently takes place onshore).

5.17 In the future as well as storing and recovering hydrocarbon gas, it may also be necessary to store and recover the products of UCG. We will therefore collectively call this “combustible gas storage and recovery”. As combustible gas storage and recovery activities have major hazard potential, it is important to ensure HSE has the jurisdiction to regulate all three storage and recovery scenarios, using relevant onshore and offshore major hazard regulations. Currently, and for the foreseeable future, offshore storage and recovery will take place in depleted oil and gas reservoirs only, and these activities are already covered by our offshore oil and gas regime.

5.18 Onshore, combustible gas storage and recovery currently takes place in both depleted reservoirs and solution mined salt caverns. HSE currently regulates onshore hydrocarbon gas storage and recovery in depleted reservoirs using its onshore oil and gas major hazard regime (e.g. the Borehole Sites and Operations Regulations 1995 (BSOR) and the offshore wells regulations - which apply onshore and offshore). These regulations ensure HSE receives notifications covering the design, construction and operation of wells used for hydrocarbon gas storage and recovery. Well notifications allow HSE to intervene early and provide advice before storage operations begin. The legislation also requires operators to have an independent well examination scheme in place, an important additional barrier to ensuring well integrity.

5.19 Legal advice suggests that underground storage of combustible gas in solution mined salt caverns and geological formations that do not contain oil and gas are not covered by BSOR or the well design and construction regulations. This is because of limitations in the current definitions contained in both regulations and which pre-date unconventional methods of gas storage and extraction.

5.20 At present, all the companies drilling these wells have voluntarily worked to the requirements of our onshore oil and gas major hazard regime. HSE anticipates that sometime in the future it is possible that new operators may enter this field who do not want to voluntarily meet the requirements of the legislation. If such a situation did arise, HSE would want to maintain standards and to ensure a level playing field between existing and new contractors. Therefore, HSE is proposing to formally bring these activities within the scope of its onshore oil and gas major hazard legislation. This will also help to maintain public and investor confidence, by ensuring a robust regulatory regime is in place for this emerging sector.

5.21 **Schedule XX of the SCR2015** details the proposed changes. **Section 9.11.4 of the IA**, gives an estimated present value over ten years cost to industry of between about £593 thousand and £724 thousand, with a best estimate of around £658 thousand. However, as we expect these sites to be compliant anyway, this is not an additional cost.

[Drafting Note – HSE solicitors have not yet drafted these proposals]

Consultation Questions	
72.	Do you agree with HSE that it is important to bring these gas storage activities within its onshore oil and gas major hazard legislation, to maintain standards and to ensure a level playing field between existing and new contractors? If you do not agree, then please explain why.
73.	Do you agree with the estimated cost to industry to of complying with the onshore major hazard regime when undertaking these onshore gas storage activities? If you do not, please explain why.

Reporting additional well dangerous occurrences

5.22 The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (RIDDOR) require that well dangerous occurrences (e.g. a blowout) are reported to HSE. This allows HSE to investigate such incidents when appropriate, to identify the lessons learnt from such incidents and to ensure that action is taken by the operator when necessary. Amendments to these regulations are required to ensure that all well dangerous occurrences associated with the emerging energy technologies outlined above (e.g. UCG and combustible gas storage and recovery) are reported. There is also a need to clarify who has the duty to report such occurrences. HSE proposes an amendment to the definition of “well” and “responsible person” in RIDDOR.

5.23 Schedule XX of the SCR2015 details the proposed changes. Section 9.11.5 of the IA estimates that there would be **no cost to industry** of these proposed changes.

[Drafting Note – HSE solicitors have not yet drafted these proposals]

Consultation Question	
74.	Do you agree that there are no costs to Industry of reporting these additional well dangerous occurrences? If you do not, explain why.

Further reducing the stock of offshore regulations

5.24 The Government is looking to reduce its overall stock of regulations that apply to businesses, including those associated with the safety of offshore oil and gas operations.

Annex 2 – Draft Offshore Installations (Safety Case) Regulations 2015

See separate annex

Annex 3 – Proposed new offshore oil and gas Environmental legislation

STATUTORY INSTRUMENTS

2015 No.

PETROLEUM

Offshore Oil and Gas Licensing (Offshore Safety Directive) Regulations
2015

<i>Made</i>	- - - -	***
<i>Laid before Parliament</i>		***
<i>Coming into force</i>	- -	19 th July 2015

(5) The Licensing Authority shall not grant a Licence unless the Applicant has submitted to the Licensing Authority, evidence which satisfies it that the Applicant has made or will make adequate provision to cover liabilities potentially deriving from the Applicant's offshore oil and gas operations.

(6) In considering whether or not it is satisfied of the matters set out in paragraph (5), the Licensing Authority shall consider whether the Applicant has, or will have at the start of oil and gas operations, sufficient financial resources for the immediate launch and uninterrupted continuation of all measures necessary for effective emergency response and subsequent remediation.

(7) In order to make an assessment under paragraph (5), including matters to be considered under paragraph (6), the Licensing Authority may request from an Applicant:

- (a) evidence of technical and financial capacity;
- (b) any other relevant information relating to the area covered by the Licence; and
- (c) any other relevant information relating to the particular stage of offshore oil and gas operations.

12.7.Appointment of Operators

13.8.—~~qq~~**b**) Offshore oil and gas operations, including planning and executing a well operation or managing and controlling the functions of a production installation, may only be carried out:

- (a) by a person who has for the time being been appointed, in accordance with paragraph (2), as an Operator in respect of a Licence; and
- (b) in respect of the area covered by that Licence.

(2) The Operator may only be appointed by:

- (a) the Licensee who holds the Licence in respect of which the Operator is to be appointed; or
- (b) at any time where no Operator is appointed (including where an appointment has been terminated), the Licensing Authority.

(3) Where the Licensee is to appoint a person to be an Operator the Licensee shall notify the Licensing Authority in advance of the proposed appointment of the identity of the person it wishes to appoint as Operator ("the Proposed Operator").

(4) The Licensing Authority, if necessary in consultation with the Competent Authority, may object to the appointment of the Proposed Operator as Operator.

(5) Where the Licence in respect of which the Operator is to be appointed requires the consent of the Minister to the appointment of an Operator then consent granted under that Licence shall be taken to mean that the Licensing Authority is not exercising the power set out in paragraph (4) to object to the appointment of the Proposed Operator as Operator.

(6) Where the Licence in respect of which the Operator is to be appointed does not contain such a requirement then the Licensing Authority may, within 28 days of receipt of the notification referred to in paragraph (3), communicate to the Licensee that it may wish to object to the appointment of the Proposed Operator as Operator.

(7) Where such a communication is made to the Licensee the Licensing Authority will set out the period, of not more than 6 months, within which it will confirm whether or not it objects to the appointment of the Proposed Operator as Operator.

(8) The Licensee may appoint the Proposed Operator as Operator where:

- (a) The Licensing Authority has granted consent under paragraph (5);
- (b) The period referred to in paragraph (6) has expired without the Licensing Authority making the communication referred to in that paragraph; or
- (c) The Licensing Authority has made the communication referred to in paragraph (6) but:
 - (i) Subsequently informed the Licensee that it will not object to the appointment of the Proposed Operator as Operator; or

(ii) The period referred to paragraph (7) expires.

(9) Where the Licensing Authority informs the Licensee that it is objecting to the appointment of the Proposed Operator as Operator, the Licensee:

- (a) Shall not appoint the Proposed Operator as Operator; and
- (b) Shall assume the responsibilities of the Operator under the Directive until such time as an Operator is appointed in accordance with this regulation.

(10) The appointment of a person as Operator shall be unaffected by the revocation, surrender or expiry of the Licence in relation to which that Operator is carrying out offshore oil and gas operations.

14.9. Obligations on the Licensee

15.10. Licensees shall:

- (a) Ensure that provision of the nature described in the evidence submitted to the Licensing Authority under regulation 3(5) is in place for the duration of offshore oil and gas operations;
- (b) Maintain sufficient capacity to meet all financial obligations resulting from liabilities for oil and gas operations carried out under their Licences;
- (c) Ensure that production installations and connected infrastructure are only operated in a geographical area covered by a Licence and only by Operators appointed in accordance with regulation 4(2) for that purpose;
- (d) Ensure that no Operator may carry out offshore oil and gas operations under the terms of a Licence held by them unless that Operator has the capacity to meet the requirements for specific operations within the framework of the Licence; and
- (e) Take all reasonable steps to ensure that Operators appointed to carry out oil and gas operations under the terms of a Licence held by them meet the requirements, carry out their functions and discharge their duties under the Directive.

16.11. Liability for environmental damage

17.12. A Licensee shall be financially liable for the prevention and remediation of environmental damage, as defined in Directive 2004/35/EC, caused by offshore oil and gas operations carried out:

- (a) by that Licensee;
- (b) on that Licensee's behalf;
- (c) by an Operator appointed in respect of that Licensee's Licence; or
- (d) on behalf of such an Operator.

18.13. Competence of the Operator

19.14. ~~(c)~~ Where the Competent Authority determines that the Operator no longer has the capacity to meet the relevant requirements under the Directive it shall notify the Licensing Authority.

(1) When the Licensing Authority receives a notification under paragraph (1) it shall notify the Licensee which holds the Licence in respect of which the Operator has been appointed, of this determination.

(2) Where:

- (a) a notification under paragraph (1); or
- (b) a notice under regulation 9

has been communicated to the Licensee the person appointed as the Operator shall cease to be the Operator and the Licensee shall assume responsibility for the discharge of the duties concerned and shall, without delay, propose a different Operator to the Licensing Authority in accordance with regulation 4(3).

20.15.Information

21.16.~~ss~~**d)** The Licensing Authority may make a request to any Licensee or Operator for information relating to compliance with that person's obligations under the Directive

(1) The Competent Authority may make a request to any:

- (a) Licensee or Operator for information relating to the fulfilment of the Competent Authority's functions under these Regulations; and
- (b) Licensee for information relating to compliance with that Licensee's obligations under regulation 5(b) or 5(d).

(2) It shall be the duty of any person who receives a request under paragraph (1) or (2) to comply with that request within such reasonable time as the body requesting the information may require.

22.17.Enforcement

23.18.~~tt~~**e)** In the event that an Operator fails to comply with any obligations placed on him or her:

- (a) by these Regulations; or
- (b) by the Licensing Authority under these Regulations,

the Licensing Authority may issue the Licensee with a notice terminating the appointment of the Operator.

24.19.~~uu~~**f)** In the event that a Licensee fails to comply with any obligations placed on him or her:

- (a) by these Regulations; or
- (b) by the Licensing Authority under these Regulations,

the Licensing Authority may revoke the Licence.

(2) Any revocation of a Licence under paragraph (1) shall have effect as if it was a revocation in accordance with the terms of the Licence.

25.20.Offences

26.21.~~vv~~**g)** It shall be an offence for any person, without reasonable excuse, to:

- (a) carry out any action contrary to regulation 4(1); or
- (b) provide false information to the Licensing Authority in satisfaction or purported satisfaction of an obligation imposed by or under these Regulations.

(2) It shall be an offence for any Licensee or Operator, without reasonable excuse, to fail to comply with the duty in regulation 8(3).

(3) A person guilty of an offence under paragraph (1) or (2) shall be liable:

- (a) On summary conviction to a fine of:
 - (i) not more than level 5 on the standard scale; or
 - (ii) £100 per day;
- (b) On conviction on indictment, to a fine.

27.22. Transitional provisions

28.23.—~~ww)h~~) Subject to paragraph (4), in relation the Operator of an installation which exists on the date on which these Regulations come into force, the provisions in these Regulations shall apply from the earlier of:

- (a) The first date, after the date upon which these Regulations come into force, upon which the Competent Authority reviews any of:
 - (i) the major accident risk assessment; and
 - (ii) the risk assessment undertaken during the preparation of a notification of well operations; or
- (b) 19th July 2018.

(2) Subject to paragraph (4), in relation to Operators of installations which are planned installations at the date on which these Regulations come into force, the provisions in these Regulations shall apply from 19th July 2016.

(3) Subject to paragraph (4), in relation to Operators planning or executing well operations these Regulations shall apply from 19th July 2016.

(4) Where more than one of the provisions in paragraphs (1)-(3) apply to a person then the date from which these Regulations apply to that person is the earlier of the dates set out in those provisions.

[Michael Fallon]
Minister of State

Date

Department of Energy and Climate Change

STATUTORY INSTRUMENTS

2015 No.

MARINE POLLUTION

**The Offshore Petroleum Activities (Offshore Safety Directive)
(Environmental Functions) Regulations 2015**

Made - - - - - ***

Laid before Parliament ***

Coming into force - - - *19th July 2015*

The Secretary of State, being a Minister designated⁽⁸⁾ for the purposes of section 2(2) of the European Communities Act 1972⁽⁹⁾ in relation to ***, hereby makes the following Regulations:

⁽⁸⁾ ***

29.24. Citation

30.25. These Regulations may be cited as the Offshore Petroleum Activities (Offshore Safety Directive) (Environmental Functions) Regulations 2015.

31.26. Commencement

32.27. These Regulations shall come into force on 19th July 2015.

33.28. Interpretation

34.29. In these Regulations—

“accepted EMS” means an EMS that:

- (a) has been accepted in accordance with regulation 6; and
- (b) whose acceptance has not been revoked.

“connected infrastructure” means, within the safety zone:

- (c) any well and associated structures, supplementary units and devices connected to the installation
- (d) any apparatus or works on or fixed to the main structure of the installation
- (e) any attached pipeline apparatus or works

“EMS” means an environmental management system;

“installation” means a stationary, fixed or mobile facility, or a combination of facilities permanently interconnected by bridges or other structures, used for offshore oil and gas operations or in connection with such operations. Installations include mobile offshore drilling units only when they are stationed in offshore waters for drilling, production or other activities associated with offshore oil and gas operations;

“licence” has the same meaning as in the Offshore Oil and Gas Licensing (Offshore Safety Directive) Regulations 2015;

“non-production installation” means an installation other than a production installation;

“offshore oil and gas operations” means all activities associated with an installation, including design, planning, construction, operation and decommissioning thereof, relating to exploration and production of oil and gas, but excluding conveyance of oil and gas from one coast to another;

“operator” has the same meaning as in the Offshore Oil and Gas Licensing (Offshore Safety Directive) Regulations 2015;

“owner” means an entity legally entitled to control the operation of a non-production installation;

“production installation” means an installation used for the offshore extraction of oil and gas from the underground strata of the geographical area covered by a licence, including offshore processing of oil and gas and its conveyance through connected infrastructure;

“prohibition notice” means a notice issued under regulation 9; and

“responsible person” means:

- (f) in relation to a production installation, the operator; and
- (g) in relation to a non-production installation, the owner.

“safety zone” means a safety zone within the meaning of Part 3 of the Petroleum Act 1987.

⁽⁹⁾ 1972 c. 68.

35.30. Application

36.31. These Regulations only apply to installations in United Kingdom waters, in any area designated under the Continental Shelf Act 1964⁽¹⁰⁾ and in any area designated as an Exclusive Economic Zone under section 41(3) of the Marine and Coastal Access Act 2009⁽¹¹⁾.

37.32. Requirement for an EMS

38.33.—~~xx~~)i) Every responsible person shall, for the duration of operations relating to their installations, hold an EMS which is an accepted EMS.

(1) It shall be the duty of every person who holds an accepted EMS to ensure that it has been integrated into that person's overall management system.

39.34. Submission and acceptance of an EMS

40.35.—~~yy~~)j) Every person who is required by regulation 5 to have an EMS accepted by the Secretary of State must submit to the Secretary of State for acceptance a document setting out:

- (a) the EMS applicable to their installation; or
- (b) an adequate description of that EMS.

(2) The document referred to in paragraph (1), including where it is amended in accordance with regulation 7(3), must include the information set out in Schedule 1.

(3) Where the Secretary of State considers that the EMS set out or described in the document submitted under paragraph (1), including where it is amended in accordance with regulation 7(3), meets an appropriate standard, he shall accept the EMS.

41.36. Maintenance and review of an accepted EMS

42.37.—~~zz~~)k) It shall be the duty of every person who holds an accepted EMS to ensure that it:

- (a) is implemented;
- (b) is kept up to date; and
- (c) remains effective.

(2) Every person who holds an accepted EMS shall fully review it—

- (a) Where they are of the view that a review should be undertaken in order to ensure their compliance with the duty in paragraph (1).
- (b) where any material change occurs which could affect the validity or effectiveness of that EMS;
- (c) when required to do so by the Secretary of State; and
- (d) no more than 5 years after:
 - (i) the most recent review required by this paragraph; or
 - (ii) the submission of the EMS under regulation 6(1), where no other review has taken place under this paragraph.

(3) Following the review required by paragraph (2) the person who holds the accepted EMS shall—

- (a) if that person is satisfied that the EMS remains effective, inform the Secretary of State of that and the reasons for that satisfaction; or

⁽¹⁰⁾ 1964 c. 29.

⁽¹¹⁾ 2009 c. 23.

- (b) if that person is of the view that the EMS is no longer effective, submit to the Secretary of State—
- (i) an amendment to the accepted EMS; or
 - (ii) an amendment of the description of the accepted EMS,
- for acceptance in accordance with regulation 6.

(4) Where, following receipt by the Secretary of State or any of the matters set out in paragraph (3), the Secretary of State becomes of the view that an EMS no longer meets the criteria set out in paragraphs (2) and (3) of regulation 6 he shall withdraw acceptance of the EMS.

43.38. Inspection of installations undertaking offshore oil and gas operations

44.39.—aaa) The Secretary of State may, if he thinks fit, appoint one or more inspectors to inspect any installation to which regulations 5 and 7 apply with a view to assessing compliance with any of the obligations in those regulations.

- (1) The inspectors must report to the Secretary of State in such manner as he may direct.
- (2) An inspector appointed under paragraph (1) may for the purposes mentioned in that paragraph and on producing evidence of that appointment—
- (a) at any reasonable time board any installation;
 - (b) on boarding an installation the inspector may take any other person authorised by the Secretary of State for the purposes mentioned in paragraph (1) and any equipment or materials that the inspector thinks may be required;
 - (c) make such examination or investigation as the inspector considers necessary (including any examination or investigation of the installation or of the maintenance or monitoring of apparatus on the installation);
 - (d) give a direction requiring that any part of the installation be left undisturbed (whether generally or in particular respects) for so long as is reasonably necessary for the purposes of any examination or investigation under sub paragraph (c);
 - (e) take such measurements and photographs and make such recordings as the inspector considers necessary for the purpose of any examination or investigation under sub paragraph (c);
 - (f) require any person whom the inspector has reasonable cause to believe is able to give any information relevant to any examination or investigation under sub paragraph (c);
 - (i) to attend at a place and time specified by the inspector;
 - (ii) answer such questions as the inspector thinks fit to ask; and
 - (iii) to sign a declaration as to the truth of that person's answers;
 - (g) require the production of, and inspect and take copies of—
 - (i) any records which by virtue of any provision of any permit are required to be kept; and
 - (ii) any records which the inspector considers it necessary for the inspector to see for the purposes of any examination or inspection under sub paragraph (c); and
 - (h) require any person to afford the inspector such facilities and assistance with respect to any matters or things within that person's control or in relation to which that person has responsibilities as the inspector considers are necessary to enable the inspector to exercise any of the powers as conferred by this regulation.
- (3) An answer given by a person in compliance with a requirement imposed under paragraph (3)(f) shall be admissible in evidence in England and Wales or Northern Ireland against that person in any proceedings or, in Scotland, against that person in criminal proceedings.
- (4) In criminal proceedings in which such person as is mentioned in paragraph (4) is charged with an offence to which this paragraph applies no evidence relating to that person's answer may be adduced and no question relating

to it may be asked by or on behalf of the prosecution unless evidence relating to it is adduced by or on behalf of that person.

(5) Paragraph (5) applies to any offence other than one—

- (a) Under regulation 11(b)(ii);
- (b) under [section 5](#) of the Perjury Act 1911 (false statements made otherwise than on oath);
- (c) under [section 44\(2\)](#) of the Criminal Law (Consolidation) (Scotland) Act 1995 (false statements made otherwise than on oath); or
- (d) under article 10 of the Perjury (Northern Ireland) Order 1979.

(6) Nothing in this regulation shall be taken to compel the production by any person of a document of which he would on ground of legal professional privilege be entitled to withhold production on an order for disclosure or discovery in an action in the High Court or the High Court in Northern Ireland or, in relation to Scotland, on an order for the production of documents in an action in the Court of Session.

45.40. Prohibition notices

46.41.—~~bbb)m~~) If the Secretary of State or an inspector appointed by him under regulation 8(1) is of the opinion that a responsible person is in breach of a duty set out in —

- (a) regulation 5; or
- (b) regulation 7,

then the Secretary of State or, as the case may be, the inspector may serve a notice on that responsible person (“a prohibition notice”).

(2) A prohibition notice—

- (a) shall state that the Secretary of State or, as the case may be, inspector is of the opinion referred to in paragraph (1);
- (b) shall specify that the person upon whom the notice is served must cease all operations in respect of such parts of the installation as directed in the notice; and
- (c) shall specify the steps that must be taken to remove the notice.

(3) Any person who receives a prohibition notice shall immediately cease all operations in respect of such parts of the installation as are identified in the notice.

(4) The Secretary of State or an inspector appointed by him under regulation 8 may by notice withdraw a prohibition notice at any time and shall withdraw a notice when satisfied that the steps required by the notice have been taken.

47.42. Appeal to the High Court, Court of Session or High Court in Northern Ireland

48.43.—~~eee)n~~) Subject to paragraph (3), any person who is aggrieved by a decision of the Secretary of State or an inspector appointed under regulation 8 to issue a prohibition notice to that person may appeal to the court.

(1) Unless the court otherwise orders, any decision of the Secretary of State or an inspector appointed under regulation 8 which is the subject of an appeal under paragraph (1) shall remain in force pending a final disposal of that appeal.

(2) Any appeal under this regulation shall be made within 28 days of written notification of the decision in question.

(3) In this regulation—

- (a) the expressions “the English area”, “the Scottish area” and “the Northern Irish area” shall have the same meanings as in the Civil Jurisdiction (Offshore Activities) Order 1987;
- (b) the expression “the court” means—

- (i) in respect of a decision relating to an installation in the English area, the High Court;
- (ii) in respect of a decision relating to an installation in the Scottish area, the Court of Session;
- (iii) in respect of a decision relating to an installation in the Northern Irish area, the High Court of Northern Ireland.

49.44.Offences

50.45.~~—ddd)o~~ Subject to paragraph (2) any person shall be guilty of an offence where they:

- (a) act, without reasonable excuse, in breach of a duty or obligation—
 - (i) in regulation 5; or
 - (ii) in regulation 7;
- (b) knowingly or recklessly, make a statement which they know to be false or misleading in a material particular where such a statement:
 - (i) is made in connection with or for the purposes of obtaining acceptance of an EMS;
 - (ii) is made for the purposes of satisfying any requirement under these Regulations for the supply of information to the Secretary of State or an inspector appointed pursuant to regulation 8.
- (c) wilfully obstruct an inspector appointed under regulation 8;
- (d) without reasonable excuse:
 - (i) fail to comply with a requirement imposed in pursuance of regulation 8; or
 - (ii) prevent another person from complying with such a requirement; or
- (e) fail to comply with the terms of a prohibition notice.

(2) A person guilty of an offence under this regulation shall be guilty of an offence punishable on summary conviction by a fine not exceeding level 5 on the standard scale, or on conviction on indictment by a fine.

51.46.Amendment of the Merchant Shipping (Oil Pollution Preparedness, Response and Co-operation) Regulations 1998

52.47.~~—eee)p~~ The Merchant Shipping (Oil Pollution Preparedness, Response and Co-operation) Regulations 1998 are amended as follows.

- (1) ...

SCHEDULE 1

53.48. The document setting out the environmental management system must include—

- (a) a description of the—
 - (i) organisational arrangements for the control of major hazards;
 - (ii) arrangements for preparing and submitting reports on major hazards, and other documents as appropriate, pursuant to the Directive; and
 - (iii) schemes for independent verification established pursuant to Article 17 of the Directive.
- (b) but not be limited to the following—
 - (i) organisation structure and personnel roles and responsibilities;
 - (ii) identification and evaluation of major hazards as well as their likelihood and potential consequences;
 - (iii) integration of environmental impact into major accident risk assessments in the report on major hazards;

- (iv) controls of the major hazards during normal operations;
 - (v) management of change;
 - (vi) emergency planning and response;
 - (vii) limitation of damage to the environment;
 - (viii) monitoring of performance;
 - (ix) audit and review arrangements;
 - (x) the measures in place for participating in tripartite consultations and how actions resulting from those consultations are put into effect; and
 - (xi) such other information as may be required by the Secretary of State.
- (c) the organisational structure, responsibilities, practices, procedures, processes and resources for determining and implementing the corporate major accident prevention policy.

[Michael Fallon]

Minister of State

Department of Energy and Climate Change

Date

EXPLANATORY NOTE

(This note is not part of the Order)

UK Parliament SIs 1990-1999/1998/1051-1100/Merchant Shipping (Oil Pollution Preparedness, Response and Co-operation Convention) Regulations 1998 (SI 1998/1056)

1998 No 1056

MARINE POLLUTION

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

Made 16th April 1998

Laid before Parliament 23rd April 1998

Coming into force 15th May 1998

The Secretary of State for the Environment, Transport and the Regions, in exercise of the powers conferred by article 2 of the Merchant Shipping (Oil Pollution Preparedness, Response and Co-operation) Order 1997 and of all other powers enabling him in that behalf, hereby makes the following Regulations:

1 Citation and commencement

2 Interpretation

3 Application

4 Oil pollution emergency plans

5 Reporting of incidents: ships and offshore installations

6 Reporting of incidents: harbour authorities and oil handling facilities

7 Offences

8 Inspection of offshore installations

Signature(s)

SCHEDULES

SCHEDULE Meaning of "Annual Turnover"

EXPLANATORY NOTE

Document information

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

Date made

Made 16th April 1998

UK Parliament SIs 1990-1999/1998/1051-1100/Merchant Shipping (Oil Pollution Preparedness, Response and Co-operation Convention) Regulations 1998 (SI 1998/1056)/1 Citation and commencement

1 Citation and commencement

These Regulations may be cited as the Merchant Shipping (Oil Pollution Preparedness, Response and Co-operation Convention) Regulations 1998 and shall come into force on 15th May 1998.

NOTES

Initial Commencement

Specified date

Specified date: 15 May 1998: see above.

Document information

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

Date made

16/04/1998

UK Parliament SIs 1990-1999/1998/1051-1100/Merchant Shipping (Oil Pollution Preparedness, Response and Co-operation Convention) Regulations 1998 (SI 1998/1056)/2 Interpretation

2 Interpretation

In these Regulations, unless the context requires otherwise:

“combined operations” means an operation carried out from an offshore installation with another offshore installation or offshore installations for purposes related to other offshore installation(s) which thereby materially affects the risks to the safety of persons or the protection of the environment on any or all of the installations;

“connected infrastructure” means, within the safety zone-

(a) any well and associated structures, supplementary units and devices connected to the offshore installation;

(b) any apparatus or works on or fixed to the main structure of the offshore installation;

(c) any attached pipeline apparatus or works;

“the Directive” means Directive 2013/30/EU of the European Parliament and of the Council of 12 June 2013 on safety of offshore oil and gas operations and amending Directive 2004/35/EC;

"GT" means gross registered tonnage, and the gross registered tonnage of a ship having alternative gross registered tonnages shall be taken to be the larger of those tonnages;

“licence” has the same meaning as the Offshore Oil and Gas Licensing (Offshore Safety Directive) Regulations 2015;

"MCA" means the Maritime and Coastguard Agency, an executive agency of the Department of the Environment, Transport and the Regions;

"National Contingency Plan" means the national plan for pollution emergencies prepared by the Secretary of State pursuant to section 293(2)(za) of the Merchant Shipping Act 1995;

"non-production installation" means an offshore installation, other than a production installation ;

"offshore installation" means a stationary, fixed or mobile facility, or a combination of facilities permanently inter-connected by bridges or other structures, used for offshore oil and gas operations or in connection with such operations. Offshore installations include mobile offshore drilling units only when they are stationed in offshore waters for drilling, production or other activities associated with offshore oil and gas operations. In the context of production installations, offshore installations include offshore processing of oil and gas and its conveyance through connected infrastructure;

"offshore oil and gas operations" means all activities associated with an offshore installation or connected infrastructure, including design, planning, construction, operation and decommissioning thereof, relating to exploration and production of oil and gas, but excluding the conveyance of oil and gas from one coast to another;

"oil" means petroleum in any form including crude oil, fuel oil, sludge, oil refuse and refined products;

"oil handling facility" means a facility which presents a risk of an oil pollution incident and includes, inter alia, an oil terminal, pipeline and any other facility handling oil but does not include an offshore installation or connected infrastructure relating to a production installation;

"oil pollution emergency plan" means a contingency plan (other than the National Contingency Plan) setting out arrangements for responding to incidents which cause or may cause marine pollution by oil, with a view to preventing such pollution or reducing or minimising its effect;

"oil pollution incident" means an occurrence or series of occurrences having the same origin, which results or may result in a discharge of oil and which poses or may pose a threat to the marine environment, or to the coastline or related interests of the United Kingdom and which requires emergency action or other immediate response;

"oil spill response effectiveness" means the effectiveness of spill response systems in responding to an oil spill, on the basis of an analysis of the frequency, duration, and timing of environmental conditions that would preclude a response. The assessment of oil spill response effectiveness is to be expressed as a percentage of time that such

conditions are not present and is to include a description of the operating limitations placed on the installations concerned as a result of that assessment;

"operator" means-

(a) in relation to an oil handling facility a person having, for the time being, the management of such facility in the United Kingdom, and

(b) in relation to a production installation, this term has the same meaning as in the Offshore Oil and Gas Licensing (Offshore Safety Directive) Regulations 2015;

"owner" means an entity legally entitled to control the operation of a non-production installation;

"production installation" means an offshore installation used for the offshore extraction of oil and gas from the underground strata of the geographical area covered by a licence;

"responsible person" means:

(a) in relation to a production installation, the operator of that installation; and

(b) in relation to a non-production installation, the owner of that installation;

"safety zone" means a safety zone within the meaning of Part 3 of the Petroleum Act 1987.

"standard reporting requirements" means the requirements stated in--

(a) part 2 (Standard Reporting Format and Procedures); and

(b) sections 3.1, 3.2 and 3.3 of part 3 (Guidelines for Detailed Reporting Requirements);

of the Appendix to the Annex to Resolution A. 648(16) adopted by the Assembly of the International Maritime Organization on 19th October 1968;

"United Kingdom ship" has the meaning given by section 85(2) of the Merchant Shipping Act 1995; and

"well operation" means any operation concerning a well that could result in the accidental release of materials, including the drilling of a well, the repair or modification of a well, the suspension of well operations and the permanent abandonment of a well.

NOTES

Initial Commencement

Specified date

Specified date: 15 May 1998: see reg 1.

Document information

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

Date made

16/04/1998

UK Parliament SIs 1990-1999/1998/1051-1100/Merchant Shipping (Oil Pollution Preparedness, Response and Co-operation Convention) Regulations 1998 (SI 1998/1056)/3 Application

3 Application

(1) In their application to harbours and oil handling facilities these Regulations apply to:

- (a) any harbour for which there is a statutory harbour authority having an annual turnover, as defined in the Schedule hereto, of more than £1 million;
- (b) any other harbour, and any oil handling facility, offering berths alongside, on buoys or at anchor, to ships of over 400 GT or oil tankers of over 150 GT;

(c) any other harbour, and any oil handling facility, in respect of which the Secretary of State has served the harbour authority or operator (as the case may be) with a notice stating that he is of the opinion that maritime activities are undertaken at that harbour or facility which involve a significant risk of discharge of over 10 tonnes of oil; and

(d) any other harbour or oil handling facility in respect of which the Secretary of State has served the harbour authority or operator (as the case may be) a notice stating that he is of the opinion that it is located in an area of significant environmental sensitivity, or in an area where a discharge of oil or other substances could cause significant economic damage.

(2) In their application to offshore installations, these Regulations apply to every offshore installation in United Kingdom waters, in any area designated under the Continental Shelf Act 1964 and in any area designated as an Exclusive Economic Zone under section 41(3) of the Marine and Coastal Access Act 2009.

NOTES

Initial Commencement

Specified date

Specified date: 15 May 1998: see reg 1.

Document information

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

Date made

16/04/1998

UK Parliament SIs 1990-1999/1998/1051-1100/Merchant Shipping (Oil Pollution Preparedness, Response and Co-operation Convention) Regulations 1998 (SI 1998/1056)/4 Oil pollution emergency plans

4 Oil pollution emergency plans

(1) Every--

- (a) harbour authority of a harbour to which these Regulations apply;
- (b) operator of an oil handling facility to which these Regulations apply; and
- (c) responsible person in respect of an offshore installation to which these Regulations apply,

shall have an oil pollution emergency plan in accordance with this regulation.

(2) There shall be a separate plan for each harbour, oil handling facility and offshore installation except that:

(a) there may be joint plans between harbour authorities and operators of oil handling facilities, within an area;

(b) there may be joint plans in respect of related offshore installations and oil handling facilities which are pipelines associated with that installation; and

(c) there may be joint plans between related offshore installations.

(3)

(a) Subject to paragraphs (4) and (7) below, within 15 months of the coming into force of these Regulations every harbour authority and every responsible person shall submit an oil pollution emergency plan relating to its harbour or oil handling facility or offshore installation, as the case may be, to the MCA for approval.

(b) In preparing an oil pollution emergency plan a harbour authority, operator of an oil handling facility or responsible person shall take into account any guidance issued by the MCA.

(c) An oil pollution emergency plan in respect of an offshore installation must comply with Schedule 2.

(4)

(a) Where, after the coming into force of these Regulations:

(i) a harbour comes into being;

(ii) an oil handling facility comes into being; or

(iii) operations relating to an offshore installation are to be commenced,

paragraph (3) above shall apply so as to require the submission of a plan at least two months before:

(aa) such harbour or oil handling facility comes into being, or as the case may be

(bb) operations relating to that offshore installation are to be commenced.

(b) In relation to a harbour referred to in sub-paragraph (a)(aa) above, where there is no harbour authority at that time, paragraph (3) above shall apply so as to require submission of a plan by the promoter of the proposed harbour.

(5)

(a) Every harbour authority, every operator of an oil handling facility and every responsible person shall fully review its oil pollution emergency plan no later than 5 years after submission of the plan in accordance with paragraph (3) or (4) above, as the case may be, and re-submit a plan within that period.

(b) Where any major change occurs which affects or could affect the validity or effectiveness of a plan to a material extent, then the harbour authority, operator of the

oil handling facility or responsible person in question shall submit a new plan, or amendments to the existing plan, within 3 months of such change becoming known.

- (c) Where there has been a material change to:
 - (i) the report on major hazards associated with an offshore installation; or
 - (ii) any of the notifications required by Article 11 of the Directive, associated with an offshore installation,

then the responsible person in respect of that installation shall submit a new plan, or amendments to the existing plan, within 3 months of such change becoming known.

- (d) Where the Secretary of State requires a responsible person to review its plan that person shall review its plan in accordance with the requirements of the Secretary of State and shall submit to the Secretary of State an amended plan within such reasonable time as the Secretary of State may require, for approval.
- (e) Where an offshore installation's plan needs to be amended due to the particular nature or location of a well, the operator of the installation shall amend the plan and submit the amended plan or an adequate description of the amendment to the Secretary of State for approval.
- (f) Any amended plan required by sub-paragraph (e) to be submitted to the Secretary of State shall be submitted to complement the relevant notification of well operations.
- (g) Where a non-production installation is to be used for carrying out combined operations the operator of any production installation involved in those combined operations shall amend the plan for that installation so that it covers the combined operations and shall submit the amended plan to the Secretary of State for approval.
- (h) Any amended plan required by sub-paragraph (g) to be submitted to the Secretary of State shall be submitted to complement the relevant notification of combined operations.

(5A) Where any document which is required to be submitted to the Secretary of State under any of sub-paragraphs (a) to (e) or (g) of paragraph (5) is not submitted as so required, the plan in respect of which the document should have been submitted shall cease to be approved for the purposes of this regulation.

(6) Where the MCA consider that any plan or amendment submitted under paragraph (3), (4) or (5) above is:

- (i) not compatible with the National Contingency Plan for the time being in force; or
- (ii) not appropriate for dealing with oil pollution incidents which may occur in the area in which the harbour authority or operator has jurisdiction or exercises responsibility,

the MCA may, after consultation with the harbour authority, operator of an oil handling facility or responsible person, direct that the plan shall be altered accordingly. It shall be the duty of the harbour authority or operator of an oil handling facility or responsible person to alter the plan in accordance with any such direction.

(7) In relation to offshore installations and oil handling facilities which are pipelines this regulation shall apply with the substitution, for any reference to the MCA, of a reference to [the Secretary of State for Energy and Climate Change].

(8) It shall be the duty of every harbour authority, every operator of an oil handling facility and every responsible person to implement its oil pollution emergency plan approved or altered under this regulation in the event of an oil pollution incident.

(9) It shall be the duty of every responsible person to—

- (a) maintain equipment and expertise relevant to their plan;
- (b) ensure that such equipment and expertise is available for use at all times;
- (c) make such equipment and expertise available to the authorities responsible for the execution of the National Contingency Plan;
- (d) undertake exercises to maintain relevant expertise for the implementation of the plan, including interaction with the National Contingency Plan; and
- (e) retain evidence of those exercises, such evidence to be provided to the Secretary of State on request.

(10) Every responsible person shall ensure that no operations, including decommissioning, which are not the subject of a plan approved by the Secretary of State under this regulation are carried out on or in relation to an offshore installation for which that person is responsible.

(11) Every operator of an oil handling facility that is a pipeline shall ensure that no activities that present a risk of an oil pollution incident are undertaken which are not the subject of a plan approved by the Secretary of State under this regulation.

NOTES

Initial Commencement

Specified date

Specified date: 15 May 1998: see reg 1.

Amendment

Para (7): words "the Secretary of State for Energy and Climate Change" in square brackets substituted by SI 2009/229, arts 4, 9, Sch 1, para (q), Sch 2, Pt 2, para 11.

Date in force: 5 March 2009: see SI 2009/229, art 1(2).

Document information

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

Date made

16/04/1998

UK Parliament SIs 1990-1999/1998/1051-1100/Merchant Shipping (Oil Pollution Preparedness, Response and Co-operation Convention) Regulations 1998 (SI 1998/1056)/5 Reporting of incidents: ships and offshore installations

5 Reporting of incidents: ships and offshore installations

- (1) The master of a United Kingdom ship, when--
- (a) his ship is in United Kingdom waters or controlled waters, and
 - (b) when his ship is elsewhere,

who observes or otherwise becomes aware of any event involving discharge of oil at sea from another ship or from an offshore installation, shall report it without delay--

- (i) in the circumstances at sub-paragraph (a) above, to HM Coastguard; and
- (ii) in the circumstances at sub-paragraph (b) above, to the nearest coastal state.

(2) A responsible person or an operator of an oil handling facility which is a pipeline who observes or otherwise becomes aware of any event involving discharge of oil at sea from another installation or a ship shall without delay report it to HM Coastguard.

(3) In this regulation "controlled waters" means water specified as areas within which the jurisdiction and rights of the United Kingdom are exercisable by the Merchant Shipping (Prevention of Pollution) (Limits) Regulations 1996.

NOTES

Initial Commencement

Specified date

Specified date: 15 May 1998: see reg 1.

Document information

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

Date made

16/04/1998

UK Parliament SIs 1990-1999/1998/1051-1100/Merchant Shipping (Oil Pollution Preparedness, Response and Co-operation Convention) Regulations 1998 (SI 1998/1056)/6 Reporting of incidents: harbour authorities and oil handling facilities

6 Reporting of incidents: harbour authorities and oil handling facilities

(1) A harbour master, or other individual having charge of a harbour, and any individual having charge of an oil handling facility (except those which are pipelines), who observes or is made aware of any event involving a discharge of or probable discharge of oil, or the presence of oil in the sea shall without delay report the event, or the presence of oil, as the case may be, to HM Coastguard.

(2) A report under this regulation shall so far as appropriate as to form and content comply with the standard reporting requirements.

NOTES

Initial Commencement

Specified date

Specified date: 15 May 1998: see reg 1.

Document information

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

Date made

16/04/1998

UK Parliament SIs 1990-1999/1998/1051-1100/Merchant Shipping (Oil Pollution Preparedness, Response and Co-operation Convention) Regulations 1998 (SI 1998/1056)/7 Offences

7 Offences

(1) Any harbour authority or any operator of an oil handling facility or any responsible person who without reasonable cause:

- (a) fails to submit or re-submit an oil pollution emergency plan in accordance with regulation 4(3), (4) or (5);
- (b) does not maintain an oil pollution emergency plan, as approved (with alterations directed by the MCA or the Secretary of State, as the case may be, if so directed) under regulation 4(5) to (7); or
- (c) fails to implement its oil pollution emergency plan in contravention of regulation 4(8),

shall be guilty of an offence punishable on summary conviction by a fine not exceeding the statutory maximum or on conviction on indictment by a fine.

(2) Any person required to make a report under regulation 5 or 6, as the case may be who, without reasonable cause, fails to comply with that requirement in all respects shall

be guilty of an offence punishable on summary conviction by a fine not exceeding the statutory maximum or on conviction on indictment by a fine.

(3) Any responsible person who without reasonable cause:

(a) fails to comply with a duty under regulation 4(9); or

(b) breaches the obligation in regulation 4(10),

shall be guilty of an offence punishable on summary conviction by a fine not exceeding the statutory maximum, or on conviction on indictment by a fine.

(4) Any operator of an oil handling facility who, without reasonable cause, breaches the obligation in regulation 4(11) shall be guilty of an offence punishable on summary conviction by a fine not exceeding the statutory maximum, or on conviction on indictment by a fine.

NOTES

Initial Commencement

Specified date

Specified date: 15 May 1998: see reg 1.

Document information

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

Date made

16/04/1998

UK Parliament SIs 1990-1999/1998/1051-1100/Merchant Shipping (Oil Pollution Preparedness, Response and Co-operation Convention) Regulations 1998 (SI 1998/1056)/8 Inspection of offshore installations

8 Inspection of offshore installations

Any person duly authorised by the Secretary of State may inspect any offshore installation or oil handling facilities which are pipelines to which these Regulations apply.

NOTES

Initial Commencement

Specified date

Specified date: 15 May 1998: see reg 1.

Document information

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

Date made

16/04/1998

UK Parliament SIs 1990-1999/1998/1051-1100/Merchant Shipping (Oil Pollution Preparedness, Response and Co-operation Convention) Regulations 1998 (SI 1998/1056)/Signature(s)

Signed by authority of the Secretary of State for Environment, Transport and the Regions

Glenda Jackson

Parliamentary Under Secretary of State,

Department of the Environment, Transport and the Regions

16th April 1998

Document information

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

Date made

16/04/1998

UK Parliament SIs 1990-1999/1998/1051-1100/Merchant Shipping (Oil Pollution Preparedness, Response and Co-operation Convention) Regulations 1998 (SI 1998/1056)/SCHEDULE Meaning of "Annual Turnover"

SCHEDULE

MEANING OF "ANNUAL TURNOVER"

Regulation 3(1)(a)

1

References in this Schedule to the authority's harbour undertaking are references to all activities of the authority in relation to which the authority is required under section 42(1) of the Harbours Act 1964 to prepare annual statement of accounts.

2

For the purposes of regulation 3(1)(a), the annual turnover of a harbour authority's harbour undertaking for any accounting year of the authority is the aggregate, as stated in any statement of accounts prepared under section 42(1) of the Harbours Act 1964 in respect of that accounting year, of all sums received by the authority during that year.

3

The reference in paragraph 2 above to sums received by the authority does not include sums received by way of grant from any public authority or any capital receipts or loans.

4

Where a harbour authority is required under section 42(2) of the Harbours Act 1964 to prepare annual statements or accounts relating to activities carried on by the authority and subsidiaries of the authority--

(a) the reference in paragraph 1 above to activities of the authority shall be read as including a reference to activities of any subsidiary of the authority;

(b) the references in paragraphs 1 and 2 above to section 42(1) shall be read as references to section 42(2); and

[(c) the reference in paragraph 2 above to sums received by the authority shall be read as including a reference to sums received by any subsidiary of the authority which are shown in the statement of accounts there mentioned (and paragraph 3 above shall be construed accordingly)].

SCHEDULE 2

1. The plan must take into account but not be limited to the major accident risk assessment undertaken during preparation of the most recent report on major hazards

2.—The plan must include but not be limited to the following information—

(1) Positions of persons authorised to initiate emergency response procedures and the positions of persons directing the internal emergency response to an oil pollution incident.

(2) Positions of persons responsible for liaising with the authority or authorities responsible for the external National Contingency Plan.

(3) Arrangements for training personnel in the duties they will be expected to carry out in the event of any incident, where necessary co-ordinating the training with the National Contingency Plan.

(4) A description of the worst case scenario which could cause any release of oil to the sea, or cause a major environmental incident as described in the report on major hazards including any relevant details when two or more installations operate in combination in a way that affects the major hazard potential.

(5) Arrangements for limiting risks to the environment, including a description of equipment and arrangements for the protection of the environment from an incipient major accident and how warnings are to be given and the actions persons are expected to take on receipt of a warning.

(6) A description of the equipment and resources available to respond to a release of oil to the sea, including the equipment and resources available for the capping of any potential release from a well. This should include a complete and up-to-date inventory of emergency response equipment pertinent to the operations, and should include details of the ownership, the storage location, the arrangements for transport to, and mode of deployment at, the incident location, and the measures in place to ensure that the response equipment and procedures are maintained in an operable condition.

(7) An estimate of the effectiveness of the oil spill response effectiveness, including consideration of the following environmental conditions—

(a) weather, including wind, visibility, precipitation and temperature;

(b) sea states, tides and currents;

(c) presence of ice and debris;

(d) hours of daylight; and

(e) other known environmental conditions that might influence the efficiency of the response equipment or the overall effectiveness of a response effort.

(8) Evidence that prior assessment of any relevant chemical dispersants has been carried out to minimise public health implications and any further environmental damage.

(9) An assessment of the identified potential environmental effects resulting from a release of oil and a description of the technical and non-technical measures envisaged to prevent, reduce or offset them, including monitoring.

(10) Arrangements for providing early warning of a major environmental incident or potential major environmental incident to the authority or authorities responsible for initiating the National Contingency Plan, details of the type of information that should be contained in any warning and the arrangements for the provision of more detailed information as it becomes available.

3. The plan must be consistent with the National Contingency Plan.

NOTES

Initial Commencement

Specified date

Specified date: 15 May 1998: see reg 1.

Amendment

Para 4: sub-para (c) substituted by SI 2001/1639, reg 2.

Date in force: 11 June 2001: see SI 2001/1639, reg 1.

Document information

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

Date made

16/04/1998

EXPLANATORY NOTE

(This note is not part of the Regulations)

1

These Regulations implement, in part, the International Convention on Oil Pollution Preparedness, Response and Co-operation, 1990. They require harbour authorities and operators of oil handling facilities and of offshore installations, where there is present a risk of an oil pollution incident, to have oil pollution emergency plans, which have to be approved by the Maritime and Coastguard Agency ("MCA") of the Department of the Environment, Transport and the Regions as conforming to the National Contingency Plan (*regulation 4(1) and (6)*). The MCA may after consulting harbour authorities or operators of oil facilities direct that a plan be altered (*regulation 4(6)*). It is the duty of harbour authorities and such operators to implement the approved plan in the event of an oil pollution incident (*regulation 4(8)*). The Secretary of State (for Trade and Industry) has equivalent powers in relation to offshore installations and pipelines (*regulation 4(7)*).

2

The Regulations also contain provisions requiring masters of United Kingdom ships, and individuals having charge of harbours, oil handling facilities and offshore installations to report certain events involving the discharge of oil (*regulations 5 and (6)*). There are powers of inspection for the Secretary of State in relation to offshore installations and pipelines (*regulation 8*).

3

A cost compliance assessment has been prepared, and may be obtained from the Marine Pollution Control Unit of the Maritime and Coastguard Agency, Spring Place, 105 Commercial Road, Southampton SO15 1EG. A copy has been placed in the library of each House of Parliament.

Copies of the Convention and Assembly Resolutions can be obtained from the International Maritime Organisation, 4 Albert Embankment, London SE1 7SR. Copies of the National Contingency Plan can be obtained from the Marine Pollution Control Unit of the Maritime and Coastguard Agency, Spring Place, 105 Commercial Road, Southampton SO15 1EG.

Document information

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

Date made

16/04/1998

Annex 4 – DECC’s Proposed Approaches

Oil Pollution Emergency Plans

The OPEP is a response document which is implemented by operators when responding to any oil pollution event irrespective of whether the instigating incident constitutes a major accident. The current regime is in place to satisfy the requirements of the OPRC convention as adopted by the IMO.

It is envisaged that the OPEP and the HSE required PFEER emergency response plan(s) will implement the IERP requirements of the directive for relevant offshore installations. The environmental elements of the IERP as detailed in the Directive will be transposed into UK legislation through amendments to the OPRC regulations.

The current OPRC OPEP regime applies to all oil and gas operations where there is present a risk of oil pollution. In the current regime OPEP responsibility rests with the operators of all relevant production and exploration activity (including the transmission of fluids through any offshore pipelines).

To meet the requirements of the Directive DECC envisage that the OPEP (as part of the IERP) will be signposted by a single paragraph in the safety case (Report on Major Hazards) ¹²and the actual OPEP will be submitted separately to the CA via the new portal. The safety case cannot be accepted/approved until the CA approves all required environmental submissions. The amended OPRC regulations will require that OPEP must be submitted at least 2 months before operations commence, however, in practice it is envisaged that the timing of the OPEP submission/review will be linked to the submission of the safety case.

To satisfy the requirements of the directive DECC propose to introduce the following requirements for Production Installations, Non Production Installations, Decommissioning Operations and Pipeline Operations through the proposed amendments to the OPRC regulations. The amendments will also introduce a requirement for all operators/owners to hold an approved plan prior to commencing operations.

Non-Production installations

¹² As detailed at paragraph 27, the Directive requires that a report on major hazards is produced by operators and owners. DECC and HSE propose to use the safety case as the vehicle to effectively deliver this requirement. As the UK’s offshore safety regime already requires operators and owners to produce a safety case, which has a great deal of the information required to be in the report on major hazards, the regulations requiring a safety case will be amended to provide details of the relevant environmental information required to meet the Directive requirements. However, we consider that duplicating environmental information already provided for assessment and acceptance under the Oil Pollution Emergency Plan (OPEP), Environmental Management System (EMS) and Environmental Impact Assessment (EIA) processes, would introduce unnecessary administrative burdens on the Industry and regulators. We are therefore proposing that the safety case only contains short descriptions of the environmental information and/or with appropriate links to existing environmental demonstrations and assessments (e.g. OPEPs, EMS and EIA).

In the current regime the operator of any non-production installation is responsible for the submission of the OPEP for that installation. The directive amends this position and introduces a requirement on the owners of non-production installations to hold an accepted IERP for each non-production installation. This will therefore include the requirement for each owner to hold an approved OPEP prior to commencing operations. As this requirement on owners is a new obligation the information to be included in the owners OPEP for a non-production installation will be limited to the requirements of the Directive.

The OPEP for each non production installation will be the emergency response document which details the required oil spill emergency response plan, procedures and arrangements for the potential oil release scenarios from the installation only. The operator responsible for each well operation or series of well operations will be required to produce an addendum to the applicable non production installations OPEP, which must be approved by DECC prior to the commencement of operations.

DECC will, at least 3 months before the amended regulation come into force in July 2015, produce detailed guidance as to the information that will be required in such OPEPs. In preparing this guidance DECC will recognise that a non-production installation can only commence operations when contracted by an operator. The following requirements are the information that DECC initially envisage will be included in the owners OPEP for a non-production installation:

1. Details of the on scene commander trained personnel on the installation;
2. Details of the arrangements for oil spill response exercises;
3. Details of how the non-production installation OPEP will interface with the subsequent OPEP addendums supplied by the operators of all future well operations;
4. Details of internal reporting channels;
5. Details of required external reporting channels/arrangements;
6. Positions of persons authorised to initiate emergency response procedures and the positions of persons directing the internal emergency response to an oil pollution incident;
7. Details of how persons on the installation will comply with all reporting requirements in the event of any oil release;
8. Positions of persons responsible for liaising with the authority or authorities responsible for the external National Contingency Plan;
9. A description of the worst case potential release of oil to sea; *(In the non-production installations OPEP this would be the diesel inventory only – for further consideration as DECC may look to require that operator, not the owner be responsible for all modelling as requiring owners to model the diesel inventory for each location where operations are to be undertaken would be an undue burden)*
10. Arrangements for limiting risks to the environment, including a description of equipment and arrangements for the protection of the environment from any incipient major accident and how warnings are to be given and the actions persons are expected to take on receipt of a warning. *(Potentially to move this requirement to operators OPEP addendum)*

The remaining information, as required by the IERP elements of the directive, will be supplied by the operator in the well specific OPEP addendum.

Well Operations

In line with current practice DECC will continue to require that operators submit an OPEP to DECC at least 2 months before the commencement each well operation or series of well operations, however, the timing of the submission may need to align with the HSE Well Notification requirements.

It is envisaged that this OPEP will be an addendum to the non-production installations approved OPEP, will be valid for each well operation or series of well operations and will form part of the IERP for the oil and gas activities being undertaken. The OPEP addendum will be required to interface with the applicable non-production installations approved OPEP and to contain all of the information as detailed in the amended OPRC regulations.

As DECC currently requires Operators to submit an OPEP prior to undertaking Well Operations the OPEP addendum submission will be required to comply with the full amended OPRC regulations. DECC will, at least 3 months before the amended regulation come into force in July 2015, produce detailed guidance regarding requirements but the following information is DECC's initial assessment of the information that will fall to be included in any well specific OPEP addendum submission:

Each OPEP addendum will be required to state that:

The OPEP has taken into account the major accident risk assessment undertaken during preparation of the most recent report on major hazards

The OPEP addendum must also include but not be limited to the following information—

1. Positions of persons authorised to initiate emergency response procedures and the positions of persons directing the internal emergency response to an oil pollution incident.
2. Positions of persons responsible for liaising with the authority or authorities responsible for the external National Contingency Plan.
3. Arrangements for training personnel in the duties they will be expected to carry out in the event of any incident, where necessary co-ordinating the training with the National Contingency Plan.
4. A description of the scenario which would result in the worst case release of oil to the sea, or, if applicable cause a major environmental incident as described in the report on major hazards, This must include any relevant details when two or more installations operate in combination in a way that affects the major hazard potential.
(Dependant on the nature of the operations the worst case scenario could be the loss of all oil (diesel) from the non production installation or the potential worst case release from the well operations. DECC envisage that the operator is responsible for making this assessment and subsequently modelling and assessing the worst case oil release scenario only – see point 9)
5. Arrangements for limiting risks to the environment, including a description of equipment and arrangements for the protection of the environment from an incipient major accident and how warnings are to be given and the actions persons are expected to take on receipt of a warning.
6. A description of the equipment and resources available to respond to a release of oil to the sea, including the equipment and resources available for the capping of any potential release from a well. This should include a complete and up-to-date inventory of emergency response

equipment pertinent to the operations, and should include details of the ownership, the storage location, the arrangements for transport to, and mode of deployment at, the incident location, and the measures in place to ensure that the response equipment and procedures are maintained in an operable condition.

(DECC envisage that the list of emergency response equipment could be a generic list of oil spill response equipment as maintained by the operator/oil spill response contractor)

7. An estimate of the effectiveness of the oil spill response effectiveness, including consideration of the following environmental conditions—

- (a) weather, including wind, visibility, precipitation and temperature;
- (b) sea states, tides and currents;
- (c) presence of ice and debris;
- (d) hours of daylight; and
- (e) other known environmental conditions that might influence the efficiency of the response equipment or the overall effectiveness of a response effort.

(DECC envisage that this could take the form of a generic document generated for areas of comparable met ocean data potentially – WoS, SNS, CNS, NNS, & Liverpool Bay with specific addenda added to this estimation added to cover any non-generic factors that would influence oil spill response effectiveness such as a particular operators oil spill response equipment inventory. The effectiveness of the equipment as described at para 6 to be included in this section based on the met ocean data for the comparable areas)

8. Evidence that prior assessment of any relevant chemical dispersants has been carried out to minimise public health implications and any further environmental damage.

(This would be for the dispersant type as available for use)

9. An assessment of the identified potential environmental effects resulting from a release of oil and a description of the technical and non-technical measures envisaged to prevent, reduce or offset them, including monitoring.

(DECC envisage that the operator models and assesses the worst case hydrocarbon release scenario only – further consideration required as this would be a change from current practice)

10. Arrangements for providing early warning of a major environmental incident or potential major environmental incident to the authority or authorities responsible for initiating the National Contingency Plan, details of the type of information that should be contained in any warning and the arrangements for the provision of more detailed information as it becomes available.

Operators will also be required to maintain equipment and expertise relevant to the OPEP addendum. The OPEP addendum will therefore also have to contain sufficient information to demonstrate that :

- (a) such equipment and expertise is available for use at all times;
- (b) such equipment and expertise is made available to the authorities responsible for the execution of the National Contingency Plan;
- (c) the operator will undertake exercises to maintain relevant expertise for the implementation of the plan, including interaction with the National Contingency Plan; and
- (d) the operator will retain evidence of those exercises, such evidence to be

provided to the Secretary of State on request.

Production installations

Operators of all production installations will continue to be required to hold an approved OPEP for all oil and gas operations. To reflect the requirements of the Directive the amended OPRC regulations will be extended to include a new requirement for an OPEP for decommissioning operations. (see later section on decommissioning OPEPs)

As DECC currently requires Operators to submit an OPEP prior to undertaking production activities OPEPs for production installations will be required to comply with the full amended OPRC regulations. DECC will, at least 3 months before the amended regulation come into force in July 2015, produce detailed guidance regarding requirements. The following information is DECC's initial assessment of the additional information that will fall to be included in all OPEPs for production installations arising from the directive:

The OPEP must include but not be limited to the following information:

1. Positions of persons authorised to initiate emergency response procedures and the positions of persons directing the internal emergency response to an oil pollution incident.
2. Positions of persons responsible for liaising with the authority or authorities responsible for the external National Contingency Plan.
3. Arrangements for training personnel in the duties they will be expected to carry out in the event of any incident, where necessary co-ordinating the training with the National Contingency Plan.
4. A description of the worst case scenario which could cause any release of oil to the sea, or cause a major environmental incident as described in the report on major hazards including any relevant details when two or more installations operate in combination in a way that affects the major hazard potential.
5. Arrangements for limiting risks to the environment, including a description of equipment and arrangements for the protection of the environment from an incipient major accident and how warnings are to be given and the actions persons are expected to take on receipt of a warning.
6. A description of the equipment and resources available to respond to a release of oil to the sea, including the equipment and resources available for the capping of any potential release from a well. This should include a complete and up-to-date inventory of emergency response equipment pertinent to the operations, and should include details of the ownership, the storage location, the arrangements for transport to, and mode of deployment at, the incident location, and the measures in place to ensure that the response equipment and procedures are maintained in an operable condition.

(DECC envisage that the list of emergency response equipment could be a generic list of oil spill response equipment as maintained by the operator/oil spill response contractor)

7. An estimate of the effectiveness of the oil spill response effectiveness, including consideration of the following environmental conditions—
 - (a) weather, including wind, visibility, precipitation and temperature;
 - (b) sea states, tides and currents;
 - (c) presence of ice and debris;
 - (d) hours of daylight; and

- (e) other known environmental conditions that might influence the efficiency of the response equipment or the overall effectiveness of a response effort.

(DECC envisage that this could take the form of a generic document generated for areas of comparable met ocean data potentially – WoS, SNS, CNS, NNS, & Liverpool Bay with specific addenda added to this estimation added to cover any non-generic factors that would influence oil spill response effectiveness such as a particular operators oil spill response equipment inventory. The effectiveness of the equipment as described at para 6 to be included in this section based on the met ocean data for the comparable areas)

8. Evidence that prior assessment of any relevant chemical dispersants has been carried out to minimise public health implications and any further environmental damage.

(This would be for the dispersant type as available for use)

9. An assessment of the identified potential environmental effects resulting from a release of oil and a description of the technical and non-technical measures envisaged to prevent, reduce or offset them, including monitoring.

(DECC envisage that the operator models and assesses the worst case hydrocarbon release scenario only – further consideration required as this would be a change from current practice)

10. Arrangements for providing early warning of a major environmental incident or potential major environmental incident to the authority or authorities responsible for initiating the National Contingency Plan, details of the type of information that should be contained in any warning and the arrangements for the provision of more detailed information as it becomes available.

Operators will also be required to maintain equipment and expertise relevant to the OPEP. The OPEP will therefore also have to contain sufficient information to demonstrate that :

- (a) such equipment and expertise is available for use at all times;
- (b) such equipment and expertise is made available to the authorities responsible for the execution of the National Contingency Plan;
- (c) the operator will undertake exercises to maintain relevant expertise for the implementation of the plan, including interaction with the National Contingency Plan; and
- (d) the operator will retain evidence of those exercises, such evidence to be provided to the Secretary of State on request.

Decommissioning of production installations

The current OPRC regulations require that operators submit an OPEP to DECC 2 months prior to activities being commenced on any offshore installation on the site of drilling for, or production of oil. 'Activities' are not defined in the OPRC regulations however an 'offshore installation' is any structure engaged in 'gas or oil exploration or production activities, or loading or unloading of oil'.

As the definition of Oil and Gas operations in the directive specifically encompasses the decommissioning of offshore installations operators of production installations will be required to hold an accepted IERP for each installation until final decommissioning is complete (and the risk of oil pollution has been removed).

Article 12(5) of the Directive requires that Operators of production installations prepare an amended safety case when any modifications are made that constitute a material change, or it is intended to dismantle any fixed production installation.

Member states are required to ensure that neither any planned modifications nor any dismantlement are commenced until the CA has accepted the amended safety case. Operators will be therefore be required to submit an IERP as part of the amended safety case (as for new safety case submissions it is envisaged that the OPEP is signposted in the safety case and is then submitted to DECC via the new portal) and the amended safety case will not be accepted/approved until all the required environmental submissions that support the amended safety case have also been approved.

As this is a new requirement the information to be included in the OPEP for a decommissioning installation is limited to the requirements of the Directive. DECC envisage this OPEP will reflect the worst case oil pollution risk from the installation during the decommissioning phase.

DECC will produce guidance as to the information that will be required in such OPEPs. The following requirements are the material/information that DECC initially envisage be included in a decommissioning OPEP.

1. Details of the on scene commander trained personnel on the installation;
2. Details of the arrangements for oil spill response exercises;
3. Details of internal reporting channels;
4. Details of required external reporting channels/arrangements;
5. Positions of persons authorised to initiate emergency response procedures and the positions of persons directing the internal emergency response to an oil pollution incident;
6. Details of how persons on the installation will comply with all reporting requirements in the event of any oil release;
7. Positions of persons responsible for liaising with the authority or authorities responsible for the external National Contingency Plan;
8. A description of the worst case potential release of oil to sea. This is to include a description of any oil release scenarios that may arise from any major accident scenarios. *(The worst case scenario may change throughout the decommissioning of the installations as described elsewhere in the IERP (PFEER plan). The operator would be obliged to ensure the worst case scenario as described is accurate and is updated in any circumstances when there is an increase in the potential scenario as described in the OPEP)*
9. Arrangements for limiting risks to the environment, including a description of equipment and arrangements for the protection of the environment from any incipient major accident and how warnings are to be given and the actions persons are expected to take on receipt of a warning.

Pipelines

In the current regime Operators are required to submit an OPEP for all offshore pipelines (including interconnectors) where there is present a risk of oil pollution. All Pipelines are considered 'oil handling facilities' in the OPRC regulations. The directive only considers those pipelines attached to an installation and within a safety zone as connected infrastructure. The

directive does not include any requirements for pipelines outside of a safety zone.

Pipelines attached to an installation in a safety zone

The Directive requires that the safety case must be submitted to the CA and accepted/approved prior to the commencement of operations – This is the point when an offshore installation (production or non-production) and any connected infrastructure used for the first time for the purpose for which it intended. Connected Infrastructure is any:

- well and associated structures, supplementary units and devices connected to the installation;
- apparatus or works on or fixed to the main structure of the installation; and
- attached pipeline apparatus or works

that is within the safety zone or within a nearby zone of a greater distance at the discretion of the member state.

To maintain current standards and meet the requirements of the directive DECC envisages that operators will be able to submit a single OPEP covering an offshore production installation, connected infrastructure and any other structure, apparatus, well or pipeline outside of a safety zone but within an agreed area/field/group of installations. Such OPEPs would be required to meet the standards of the current regime and the environmental elements of the IERP which are reflected in the proposed amended OPRC regulations.

The new requirements for OPEPs that cover an installation and any connected infrastructure will be:

1. Positions of persons authorised to initiate emergency response procedures and the positions of persons directing the internal emergency response to an oil pollution incident.
2. Positions of persons responsible for liaising with the authority or authorities responsible for the external National Contingency Plan.
3. Arrangements for training personnel in the duties they will be expected to carry out in the event of any incident, where necessary co-ordinating the training with the National Contingency Plan.
4. A description of the worst case scenario which could cause any release of oil to the sea, or cause a major environmental incident as described in the report on major hazards including any relevant details when two or more installations operate in combination in a way that affects the major hazard potential.
5. Arrangements for limiting risks to the environment, including a description of equipment and arrangements for the protection of the environment from an incipient major accident and how warnings are to be given and the actions persons are expected to take on receipt of a warning.
6. A description of the equipment and resources available to respond to a release of oil to the sea, including the equipment and resources available for the capping of any potential release from a well. This should include a complete and up-to-date inventory of emergency response equipment pertinent to the operations, and should include details of the ownership, the storage location, the arrangements for transport to, and mode of deployment at, the incident location, and the measures in place to ensure that the response equipment and procedures

are maintained in an operable condition.

(DECC envisage that the list of emergency response equipment could be a generic list of oil spill response equipment as maintained by the operator/oil spill response contractor)

7. An estimate of the effectiveness of the oil spill response effectiveness, including consideration of the following environmental conditions—

- (a) weather, including wind, visibility, precipitation and temperature;
- (b) sea states, tides and currents;
- (c) presence of ice and debris;
- (d) hours of daylight; and
- (e) other known environmental conditions that might influence the efficiency of the response equipment or the overall effectiveness of a response effort.

(DECC envisage that this could take the form of a generic document generated for areas of comparable met ocean data potentially – WoS, SNS, CNS, NNS, & Liverpool Bay with specific addenda added to this estimation added to cover any non-generic factors that would influence oil spill response effectiveness such as a particular operators oil spill response equipment inventory. The effectiveness of the equipment as described at para 6 to be included in this section based on the met ocean data for the comparable areas)

8. Evidence that prior assessment of any relevant chemical dispersants has been carried out to minimise public health implications and any further environmental damage.

(This would be for the dispersant type as available for use)

9. An assessment of the identified potential environmental effects resulting from a release of oil and a description of the technical and non-technical measures envisaged to prevent, reduce or offset them, including monitoring.

(DECC envisage that the operator models and assesses the worst case hydrocarbon release scenario only – further consideration required as this would be a change from current practice)

10. Arrangements for providing early warning of a major environmental incident or potential major environmental incident to the authority or authorities responsible for initiating the National Contingency Plan, details of the type of information that should be contained in any warning and the arrangements for the provision of more detailed information as it becomes available.

Operators will also be required to maintain equipment and expertise relevant to the OPEP. The OPEP will therefore also have to contain sufficient information to demonstrate that :

- (a) such equipment and expertise is available for use at all times;
- (b) such equipment and expertise is made available to the authorities responsible for the execution of the National Contingency Plan;
- (c) the operator will undertake exercises to maintain relevant expertise for the implementation of the plan, including interaction with the National Contingency Plan; and
- (d) the operator will retain evidence of those exercises, such evidence to be provided to the Secretary of State on request.

Pipelines outside of a safety zone

OPEPs for pipeline only operations that contain no infrastructure/apparatus in any safety zone are outside the scope of the safety case requirements of the directive. The amended OPRC regulations continue to consider such pipelines as oil handling facilities and the amended regulations have been drafted such that the additional requirements arising from the directive do not apply to the operators of oil handling facilities which are pipelines.

The amended OPRC regulations introduce a new requirement to ensure that no activities that present a risk of an oil pollution incident are undertaken which are not the subject of an approved OPEP.

There are no other changes to the OPEP requirements for pipeline OPEPs which are not connected infrastructure.

Environmental Management Systems – Safety Case/OSPAR

The Directive requires Owners and Operators to submit an applicable Safety and Environmental Management System (or an adequate description thereof) as part of the Report on Major Hazards. The EMS element of this requirement will be transposed into UK legislation in the proposed new Offshore Petroleum Activities (Offshore Safety Directive) (Environmental Functions) Regulations 2015 (the OSDEF regulations). It is intended that the OSDEF regulations will require that every relevant operator and owner have an accepted EMS prior to the commencement of operations.

DECC anticipate that the OSDEF requirements will run concurrently with the current licensing arrangements whereby DECC will not award a licence in response to any application that is not supported by an EMS that satisfies the requirements of the DECC EMS Guidance (and hence the OSPAR recommendation), or does not provide a commitment to comply with these requirements before they wish to plan, develop and undertake any exploration and production activity, including offshore operations. At the licencing stage DECC envisage that, in practice, an established production installation operator applying for any new licences would continue to be required to demonstrate they have an EMS and any new potential production installation operators would be required to either demonstrate that they have an EMS or provide a commitment to have an EMS prior to the commencement of operations.

The information that must be contained in the EMS (or adequate description thereof) as submitted to DECC as part of the Safety Case will be defined in a schedule to the OSDEF regulations. The proposed draft of the information that must be included is contained in schedule 1 of the OSDEF regulations (see Annex 3) and is as follows:

The document setting out the environmental management system must include—

- (a) a description of the—
 - (i) organisational arrangements for the control of major hazards;
 - (ii) arrangements for preparing and submitting reports on major hazards, and other documents as appropriate, pursuant to the Directive; and
 - (iii) schemes for independent verification established pursuant to Article 17 of the Directive.
- (b) but not be limited to the following—
 - (i) organisation structure and personnel roles and responsibilities;
 - (ii) identification and evaluation of 121 major hazards as well as their likelihood and

- (iii) potential consequences;
 - (iii) integration of environmental impact into major accident risk assessments in the report on major hazards;
 - (iv) controls of the major hazards during normal operations;
 - (v) management of change;
 - (vi) emergency planning and response;
 - (vii) limitation of damage to the environment;
 - (viii) monitoring of performance;
 - (ix) audit and review arrangements;
 - (x) the measures in place for participating in tripartite consultations and how actions resulting from those consultations are put into effect; and
 - (xi) such other information as may be required by the Secretary of State.
- (c) the organisational structure, responsibilities, practices, procedures, processes and resources for determining and implementing the corporate major accident prevention policy.

In order to ensure compliance with both the requirements of the OSD and the OSPAR recommendation an EMS as submitted or described for a production installation as part of the safety case must satisfy the requirements of both regimes. The proposed OSDEF regulations will allow the Secretary of State to require the provision of other material as required and DECC intend to utilise this authority to require the inclusion of demonstration that any EMS for a production installation has been verified.

As the OSPAR EMS recommendation is not currently applied to non-production installations the EMS as submitted or described in the safety case for a non-production installation must comply with the requirements of the OSDEF regulations only i.e. major accident hazards.

DECC envisage that, in practice, the EMS (or adequate description thereof) as required by the safety case will be submitted through the new CA on-line portal with a short description only of the EMS provided in the safety case which is best regarded as a 'signpost' to the EMS as provided through the portal. This short description would be, at most, a single paragraph.

The required timing of the submission and review of the EMS (or adequate description thereof) will be linked to the review of the safety case as the CA cannot accept/approve the safety case without approving all the required environmental submissions including the EMS.

Where the Secretary of State has accepted an EMS the relevant owner or operator will have a duty under the OSDEF regulations to ensure the EMS is Maintained and Reviewed. In practice every person who holds an accepted EMS will be required by regulation to ensure the EMS is implemented, kept up to date, remains effective and is adequately reviewed.

It is proposed that the OSDEF regulations will allow the Secretary of State to appoint inspectors with a view to assessing the compliance of relevant owners and operators EMS. If the Secretary of State or an appointed inspector is of the opinion that a relevant owner or operator is in breach of the requirements to Hold, Maintain and Review an EMS they have the authority to issue prohibition notices requiring the cessation of all operations in respect of such parts of the

installation as directed.

The OSDEF regulations will also introduce criminal offences should any relevant operator or owner breach, without reasonable excuse, the duties to Hold, Maintain and Review an EMS

Environmental Management Systems – Design/Relocation notifications for a production installation

The directive requires that a general description of the Safety and Environmental Management System by which the intended major accident control measures are to be maintained is contained in the design/relocation notification. It is proposed that this requirement is introduced into UK legislation through the new Safety Case Regulations.

In practice the HSE and DECC acting as the CA will review the design notification as submitted by the operator to the CA portal with DECC focusing on the review of the EMS description. The CA will then issue either relevant comments or a statement concerning all elements of the submission.

Annex 5 – Proposed changes to HSE’s ACoPs

Changes to the Prevention of Fire and Explosion, and Emergency Response (PFEER) on Offshore Installations Approved Code of Practice (ACoP)

(Excluding updated references, paragraph changes/separation and minor drafting and grammatical changes)

(Due to the transposition of the EU Offshore Directive in to UK legislation, particularly in to the Safety Case Regulations, it cannot be confirmed at this point in time that there will not be further additional changes to the PFEER ACoP)

ACoP	Original Para	Original text / heading	Changed text / summary
PFEER	Whole doc.	“so far as is reasonably practicable”.	HSE now uses the phrase; “so far as reasonably practicable”.
	Whole doc.	The term ‘persons’	HSE now uses the phrase; “people”
	Whole doc.	All references to ‘UKOOA’	Have been changed to read; ‘Oil & Gas UK’
	Whole doc.	All references to ‘Safety Case Regs.(SCR) 2005’	Changed to read; ‘Safety Case Regs.(SCR) 2015’

ACoP	Original Para	Original text / heading	Changed text / summary
	Whole doc.	All references to 'A guide to the Offshore Installations (Safety Case) Regulations. 1992'	Are changed to read; 'A guide to the Offshore Installations (Safety Case) Regulations. 2015'
	Page (iv)	Notice of Approval	This can now be found at Appendix 1
	Pages 1 & 2	Introduction & Scope	HSE now has an updated standardised template for all ACoP Introductory pages, which has been applied to this ACoP. All key information previously contained within the 'Introduction' section has been retained. Although Para 1 has now been removed.
	Para 5	General health and safety legislation	To make the Para shorter and easier to read the Para has been split into two.

ACoP	Original Para	Original text / heading	Changed text / summary
	Para 10	Safety Case Regulations	<p>HSE has removed the opening part of the first sentence as it is unnecessary text;</p> <p>“By virtue of regulation 8(2) of SCR”</p> <p>The Para now begins;</p> <p>“Safety cases submitted.....” etc. etc.</p> <p>The penultimate sentence has been slightly amended to read;</p> <p>“Anything arising from compliance....” etc.</p> <p>“<u>However, if</u>” from the opening of this sentence has been deleted</p> <p>To make the Para shorter and easier to read the Para has been split into two.</p>
		Regulation 2 ‘Interpretation’ (Reference to ‘the 1995 Order’)	New explanatory guidance text has been inserted to explain that the reference to “the 1995 Order’ is in fact a reference to the Application outside Great Britain Order 2013.
	Para 14	Interpretation - Guidance	This Para has now been removed as it is no longer applicable.
	Para 20	Reg 2 Guidance	<p>The final sentence has been slightly changed to read;</p> <p>“The means of evacuation offers protection from the hazard, and have its own motive power to enable people to move quickly away from the installation”.</p>

ACoP	Original Para	Original text / heading	Changed text / summary
	Para 27	Reg. 3 Guidance	To make the Para shorter and easier to read the Para has been split into two.
	Para 29	Reg. 3 Guidance	<p>To make the Para shorter and easier to read the Para has been divided into two. In addition the second and third sentences;</p> <p>“Dutyholders <u>will need to</u> pay particular attention etc. etc” and “Emergency response arrangements <u>need to</u> be established etc. etc.”</p> <p><u>Need to</u> has in both instances been changed to “<u>should</u>”</p>
	Para 30	Regulation 3 Application - Guidance	<p>HSE has updated the Para to highlight that consideration needs to be given to hazard identification, risk assessment, risk reduction measures. The Para reads;</p> <p>“Particular attention should be paid to the hazard identification, risk assessment, risk reduction measures, identification and application when defining and evaluating the arrangements for managing fire and explosion hazards and emergency response during combined operations. This is necessary to ensure that the measures and arrangements take account of all the installations involved and the hazards they present as a result of their proximity to other installations” etc. etc.</p> <p>To make the Para shorter and easier to read the Para has been split into two.</p>

ACoP	Original Para	Original text / heading	Changed text / summary
	Para 32	Regulation 3 Relationship with other Regulations – Guidance	<p>HSE has added the following sentence to the end of the Para;</p> <p>“When operating as an installation it must be demonstrated by the dutyholder, that such codes achieve compliance with the relevant statutory provisions”</p>
	Para 35 – 1 st bullet point	Regulation 4 General Duty - Guidance	<p>The bullet point has been slightly amended to include control of ignition sources, the underlined text has been inserted, it now reads;</p> <p>“protecting persons from fire and explosion covers all the measures which may be needed to safeguard people from fires and explosions, i.e. inherent safety by design, preventive <u>(including the appropriate control of all ignition sources)</u> detection, control and mitigation measures”.</p>
	Para 36	Regulation 4 Relationship with other Regulations - Guidance	<p>The 3rd sentence reads;</p> <p>“Dutyholders will need to <u>satisfy</u> themselves etc. etc.</p> <p>Now reads;</p> <p>“Dutyholders will need to <u>ensure</u> themselves etc. etc.</p>
	Para 38		<p>HSE is still considering if changes to this Para are required to reflect HSG 65, now that the Management of Health & Safety at Work Regs ACoP has been withdrawn.</p>

ACoP	Original Para	Original text / heading	Changed text / summary
	Para 39 - 1 st bullet point	Regulation 4 Relationship with other Regulations - ACoP	<p>Para has been updated to clarify that timely detection, reporting and recording of incidents takes place, the following has been added;</p> <p>“..... preventing hazardous events occurring, timely detection of events that have occurred, appropriate reporting and recording of such events, controlling their escalation, and mitigating their consequences”</p>
	Para 41	Regulation 5 Assessment - Guidance	<p>The final sentence of this Para is no longer necessary and has been removed;</p> <p>“Fax or other electronic transmission of the address is acceptable”</p>
	Para 43	Regulation 5 Assessment - Guidance	<p>The following explanatory text has been added after the final sentence as a new Para;</p> <p>“Any changes (even those considered as an “improvement”) to a Safety Critical Element (SCE), performance standard or planned maintenance routine (of an SCE) require assessment to ensure any interaction with other existing SCE’s are adequately evaluated”</p>
	Following Para 45	Regulation 5 Assessment – Guidance	<p>HSE is currently considering if the ‘Performance Standard’ statement needs to be updated.</p>

ACoP	Original Para	Original text / heading	Changed text / summary
	Para 50 1 st bullet point	Regulation 5 Relationship with other Regulations - ACoP	<p>HSE has added to the bullet point the need for assessments to include the release of toxic and asphyxiating gases, it now reads;</p> <p>“identifying fire and explosion major accident hazards, and major accident hazards with the potential to require evacuation, escape or rescue; <u>including those that concern the release of toxic and asphyxiating gases”</u></p>
	Para 50 3 rd bullet point	Regulation 5 Relationship with other Regulations - ACoP	<p>HSE has updated this bullet point to be clear what is expected in this step. The underlined text has been added;</p> <p>“identifying the measures needed to meet the requirements of these Regulations, <u>to identify, monitor, control, mitigate and adequately protect people</u> in respect of major accident hazards from fire and explosion, and major accident hazards requiring evacuation, escape and rescue”</p>

ACoP	Original Para	Original text / heading	Changed text / summary
	Para 50 4 th bullet point	Regulation 5 Relationship with other Regulations - ACoP	<p>HSE has updated this bullet point to be clear what is expected in this step. The underlined text has been added;</p> <p><u>“identifying performance standards including consideration of risk assessment for offshore installations and human vulnerability criteria and for those measures to protect people from fire and explosion and to ensure effective evacuation, escape and rescue”</u></p>
	Para 53	Regulation 5 Relationship with other Regulations - ACoP	<p>The final sentence has been updated, the underlined text has been added, it reads;</p> <p><u>“Assumptions should be justified, sensitivities identified and considered and uncertainty adequately addressed ensuring a realistic perspective of risk is taken”.</u></p>
	Para 55	Regulation 5 Relationship with other Regulations - ACoP	<p>The opening sentence has been updated to provide greater clarity, it now reads;</p> <p>“In recording the assessment process, provide enough information to justify decisions on appropriate measures. The assessment will form the basis for selecting plant and equipment, and drawing up procedures etc. So record information from it in an appropriate way etc. etc.”</p>

ACoP	Original Para	Original text / heading	Changed text / summary
	Para 65	Regulation 6 Relationship with other Regulations – Guidance	<p>The Para has been slightly updated to reflect a requirement, where ‘must’ replaces ‘will need to’</p> <p>“In making the arrangements for appointing people to undertake emergency duties, dutyholders <u>must</u> consult safety representatives etc. etc.”</p>
	Para 88 1 st bullet point	Regulation 9 Prevention of Fire and Explosion – Guidance	<p>The bullet point has been updated to include the underlined text to indicate what should also be considered;</p> <p>“the choice of process and production method to minimise the risk of fire and explosion <u>including elimination or control of all sources of ignition</u>”</p>

ACoP	Original Para	Original text / heading	Changed text / summary
	Para 95 1 st bullet point		HSE has slightly re-worded the bullet point to read; “control of ignition sources including those from mechanical operations and equipment, use of electrical equipment not designed for use in areas of flammable and explosive atmospheres and hot work e.g. welding, flame-cutting”
	Para 98	Regulation 10 Detection of incidents - Guidance	HSE has added to the final sentence the following text; <u>“.....and identifying leakages of flammable liquids; other relevant reasonably foreseeable events may include the presence of asphyxiating atmospheres”.</u>
	Para 99 (e)	Regulation 10 Detection of incidents – Guidance	This has now become Para 99 (f).
	Para 99 (e)	Regulation 10 Detection of incidents – Guidance	A new sub Para has been added, it reads; “suitable detection systems for asphyxiating atmospheres”
	Para 100	Regulation 10 Detection of incidents – Guidance	This Para has been moved and reinserted before Para 98. As it explains the terms used in the regulations.

ACoP	Original Para	Original text / heading	Changed text / summary
	Para 101	Regulation 10 Relationship with other Regulations – Guidance	The Para has been split into 3 separate Para's for easier reading.
	Para 103		The Para has been divided into separate Para's and sub Para's for easier reading.
	Para 104	Regulation 10 Relationship with other Regulations - ACoP	<p>HSE has updated the Para to further explain the requirements of detection systems and their detection settings, the following has been added;</p> <p>“Detection systems for fire and explosion hazards should be able to ensure the timely detection of flammable, explosive and toxic gas and other atmospheres such as those that are asphyxiating.</p> <p>Where a flammable atmosphere is possible, detector alarm and action levels should be set so as to minimise such circumstances through early detection and system activation.</p> <p>Consideration should be given to the detection system capabilities and its ability to detect and advise where a potential hazard is developing. Detection system action and alarm levels should be set at values that enhance system performance. For example, gas detector alarm levels should be set at values as low as possible but above a value where system dynamics result in spurious trips. Flame detection systems should only have voting if this does not delay emergency action on alarm, i.e. when multiple detectors are monitoring the same location or equipment. Appropriate measures.....” etc. etc.</p>
	Para 130	Regulation 13 Mitigation of Fire and Explosion – Guidance	‘Temporary Refuge’ has been added to the list of examples.

ACoP	Original Para	Original text / heading	Changed text / summary
	Para 137	Regulation 13 Relationship with other Regulations – ACoP	<p>The Para has been divided for greater clarity. Following the final sentence HSE has added the following text;</p> <p>“The temporary refuge survival time should be adequately defined and demonstrated. Events that are likely to compromise temporary refuge integrity within this time must be clearly identified and included in the emergency response plan”</p>
	Para 154	Regulation 15 Arrangements for Evacuation - ACoP	The Para has been divided and sub divided to make it easier to read

ACoP	Original Para	Original text / heading	Changed text / summary
	Para 155	Regulation 15 Arrangements for Evacuation - ACoP	<p>HSE has revised this Para to further explain TEMPSC capacity for evacuation. The revised Para reads;</p> <p>“Dutyholders should ensure that the preferred and alternative means provide sufficient capacity to enable everyone to evacuate the installation to a place of safety in reasonably foreseeable emergencies.</p> <p>In most cases alternative means would be means of evacuation by sea provided by TEMPSC. In these circumstances there should be sufficient TEMPSC places in excess of the maximum number of people on board as justified on the basis of the assessment required by regulation 5.</p> <p>Means of evacuation by sea should be suitably located so as to be readily accessible to all those on board from the temporary refuge. TEMPSC provided in compliance with this regulation should be easy to deploy, reliable in launch, and able to get away quickly from the installation. Where it is reasonably practicable to do so, TEMPSC should be oriented away from the installation on completion of launch”.</p> <p>To support the revision of Para 155, the following ‘Guidance’ text has also been provided;</p> <p>“Historically the required TEMPSC place provision was required to be 150% of POB form the Offshore Installations (Life-saving Appliances) Regulations), SOLAS in some circumstances requires 200% of POB which may be appropriate for floating installations where conditions of trim or list may prevent launch of some of the TEMPSC.</p> <p>It may be appropriate to have sufficient numbers of TEMPSC, plus one extra that is readily accessible from the temporary refuge (ie N+1) to allow for maintenance and redundancy considerations. Consider the need to evacuate stretcher-bound casualties and the associated space required. The rationale for the number, location and capacity of TEMPSC provided for the POB of the installation should be as assessed as required by regulation 5”</p>

ACoP	Original Para	Original text / heading	Changed text / summary
	Para 161		<p>The final sentence of this Para has been slightly re-worded, it now reads;</p> <p>“In addition, sufficient means of descent to the sea should be provided on all installations, including fixed ladders, stairways or personal devices for controlled descent, where reasonably practicable.”</p>
	Para 172	Regulation 17 Arrangements for recovery and rescue - ACoP	The Para has been divided and sub divided to make it easier to read
	Para 182 3 rd bullet point	Regulation 18 Suitability of personal protective equipment for use in an emergency - ACoP	<p>This Para has been updated by adding the following underlined text;</p> <p>“life-jackets (<u>suitable to the mode of evacuation</u>) and survival suits for all those on the installation <u>who may require them</u> to maximise their chance of survival” etc. etc</p>
	Para 194	Regulation 19 Suitability and condition of plant – Relationship with other Regulations - Guidance	<p>The Para has been updated to reflect the revocation of the Offshore Installations (Construction and Survey) Regulations it now reads;</p> <p>“Regulation 19(6) excludes from the PFEER scheme of examination equipment covered by a current certificate of fitness (COF) under the Offshore Installations (Construction and Survey) Regulations (CSR). <u>These Regulations are no longer current and were revoked by the Offshore Installations and wells (Design and Construction etc) regulations (DCR). The transitional arrangements between CSR and DCR (in force until 30 June 1998) have expired</u>”.</p>

Changes to the Health Care and First Aid on Offshore Installations and Pipeline works Approved Code of Practice (ACoP)

(Excluding updated references, paragraph changes and minor drafting and grammatical changes)

ACoP	Original Para	Original text / heading	Changed text / summary
First Aid	Page iv	Notice of Approval	This can now be found at Appendix 1
	Whole doc.	“so far as <u>is</u> reasonably practicable”.	HSE now uses the phrase; “so far as reasonably practicable”.
	Whole doc.	Health & Safety Commission	All references to the ‘Commission’ have been changed to read; “Health & Safety Executive”
	Pages 1 & 2	Introduction	HSE now has an updated standardised template for all ACoP Introductory pages, which has been applied to this ACoP. All key information previously contained within the ‘Introduction’ section has been retained.
	Para 14 and following Para’s	Reg 2 - Guidance	HSE has updated the Para to reflect the (Application outside Great Britain) Order 2013 (rather than the 1995 Order). Along with explanatory text to confirm the revocation of previous Orders.

ACoP	Original Para	Original text / heading	Changed text / summary
	Para 22 (a)	Reg 2 - <u>ACoP</u>	<p>HSE has inserted a new Para 22 (a), to provide clarity for the definition of a 'medical practitioner'. It now reads;</p> <p>"a registered medical practitioner (in the case of regulation 5 (1)(a) and 5(1)(c)) means someone who holds a current General Medical Council (GMC) registration and has a license to practice in the United Kingdom."</p> <p>NB. all other Para 22 sub Para's remain unchanged, except for (a) becoming (b) and (b) becoming (c) etc. etc.</p>
	Para 23	<u>ACoP 4</u>	The Para has been deleted as it provides no information specific to Regulation 4.
	Para 38	Assessment of needs - Guidance	<p>HSE has deleted the opening sentence as it is implicit within the preceding Para's that First aid includes treatment to preserve life and minimise the consequences of injury etc. The opening sentence now reads;</p> <p>"When it is necessary to evacuate a casualty ashore the person in control must ensure that adequate arrangements are in place for the care of the casualty during evacuation."</p>

ACoP	Original Para	Original text / heading	Changed text / summary
	Para 39	Assessment of needs - Guidance	<p>This Para has been merged into Para 38 and slightly updated to make clear the arrangements and people involved in evacuating a casualty. Following the opening sentence of Para 38 the text now reads;</p> <p>“This will involve providing an offshore first -aider or offshore medic as escort (see Appendices 3 and 4). Where this is not possible or necessary the person in control should ensure, that attendant personnel are competent to provide an adequate level of care during evacuation. Once the sick or injured person has been transferred to the care of a hospital or other onshore medical facility, the person in control no longer has to provide for their needs”</p>
	Para 44	Arrangements during the construction and dismantling of offshore installations - Guidance	<p>The opening sentence;</p> <p>“Arrangement should be made during etc.”</p> <p>Has been amended to read;</p> <p>“Make arrangements during etc.”</p>
	Para 46	Basic First Aid training - Guidance	<p>The final sentence is updated to clarify that the offshore medic can carry out the basic first aid training to unqualified offshore workers provided they have the skills to do so. The sentence now reads;</p> <p>“The offshore medic can carry out this training if necessary provided they have the appropriate skills and experience to undertake this task”</p>

ACoP	Original Para	Original text / heading	Changed text / summary
	Para 48	Basic First Aid training – Guidance	<p>The opening sentence of this Para has been re-worded as follows;</p> <p>“As well as equipment kept in the sick bay, provide offshore first-aiders with appropriate first-aid and medical equipment; which should be a type they are familiar with”</p>
	Para 49	Guidance – Reg. 5(1)	<p>The Para has been slightly re-worded to confirm that Appendix 3 & 4 now include guidance on ‘Competence’</p>
	Following Para 49	Training and Selection - Guidance	<p>A new Para has been inserted to explain the ‘employer’ is responsible for the selection and recruitment of people to act as medics and that person should demonstrate a basic understanding of Health Sciences. The new Para reads;</p> <p>“The employer is responsible for the selection and recruitment of individuals competent to act as offshore medics. As offshore medic training is challenging potential candidates are required to demonstrate that they have a basic understanding of health sciences”.</p>
	Para 50	Training and Selection - Guidance	<p>The Para has been slightly amended by removing the words “special” and “of prime” from the 1st sentence. It now reads;</p> <p>“Because of the attributes required of those employed as offshore medics, selection of suitable applicants is important.....” etc. etc.</p>

ACoP	Original Para	Original text / heading	Changed text / summary
	Para 51	Training and Selection – Guidance	<p>This Para has been updated to remove un-necessary comment, the following text has been removed;</p> <p>“the requirements of the courses and the qualities likely to make a good offshore medic or offshore first aider should be borne in mind”.</p> <p>The Para now reads;</p> <p>“People in control may need to recruit or select candidates for offshore medic or offshore first-aid training courses. In recruiting or selecting people for training, remember that training alone does not ensure that a person will be 'suitable.....'. etc. etc.”</p>

ACoP	Original Para	Original text / heading	Changed text / summary
	Para 52	Training and Selection – Guidance	<p>The Para is slightly updated to read;</p> <p>“The HSE-approved training for offshore medics (see Appendix 3) is designed to build on the medical or nursing skills already held by candidates. Successful candidates are likely to be experienced nurses registered with the Nursing and Midwifery Council or experienced paramedics registered with the Health Care Professions Council. Other candidates may be suitable, but it is for the employer and training organisation to determine if they have the necessary underpinning core skills allied to medicine and nursing”.</p> <p>The final sentence has been removed;</p> <p>“All candidates should have knowledge of the offshore working environment, which may have been obtained through means other than practical experience”</p>
	Para 53	Training and Selection – Guidance	<p>From the opening sentence HSE has removed;</p> <p>“In the course of their duties”.</p> <p>The Para now commences;</p> <p>“Offshore medics and offshore first aiders will.....” etc. etc.</p>

ACoP	Original Para	Original text / heading	Changed text / summary
	Para 54	Medical Supervision - Guidance	<p>Due to the length of this Para it has now been split into two Para's. The first part of the Para has not been changed. It ends with;</p> <p>“(See Appendices 3 and 4)”</p>
	Para 54	Medical Supervision - Guidance	<p>The second half of this Para commences with;</p> <p>“The medical practitioner should etc.”</p> <p>The final sentences have been slightly re-worded to be more succinct, it reads;</p> <p>“‘Suitably qualified’ means having knowledge and experience managing health issues likely to occur offshore. In many cases this will also indicate a need to have experience or a qualification in occupational medicine”</p>

ACoP	Original Para	Original text / heading	Changed text / summary
	Para 56	Medical Supervision - Guidance	<p>The underlined text identifies the updates made to this Para;</p> <p>“Regular supervision of the offshore medic <u>by the medical practitioner</u> should include such things as oversight of the ordering and supply of drugs and medical equipment, the application of medical policy and procedures, the provision of non-urgent medical advice and involvement in the continuing <u>professional development through regular update training of the medic to ensure competency is maintained</u>”</p>
	Para 57	Duty to provide information - Guidance	<p>The final sentence has been slightly re-worded, it now says;</p> <p>“Make workers aware of any alterations in the arrangements (for example, when they are required to use different facilities or go to different personnel)”</p>
	Following Para 60	Heading – Approval of training organisations	<p>This heading has been re-titled to;</p> <p>“Approved training organisations”</p>

ACoP	Original Para	Original text / heading	Changed text / summary
	Para 61	Approval of training organisations - Guidance	<p>The Para has been deleted due to changes in the current guidance for offshore first-aid and offshore medic training (WEB 43 & 44) and is replaced with the following explanatory text;</p> <p>“Details of organisations approved by HSE to offer qualifications in offshore first aid and/or offshore medic can be found on the HSE website. Organisations wishing to be approved by HSE to offer these qualifications should refer to the relevant HSE guidance”</p>
	Para 63	Approval of training organisations - Guidance	<p>HSE has inserted the underlined text to the guidance to provide greater clarity;</p> <p>“Regulations 5(2)(b) and (c) <u>and 5(3) (b) (i) and (iii) where it makes reference to the supply of water to the bath only</u> are not reproduced in this publication. They deal with transitional arrangements only, and are no longer relevant”</p>
	Para 64	Approval of training organisations - Guidance	<p>HSE has inserted the underlined text provide more clarity;</p> <p>“Sick bays introduced since 13 September 1990 cannot take advantage of this provision. <u>Where an installation has a sick bay which has not been refurbished since the 13 September 1990 this provision is still valid</u>”</p>
	Appendix 1	Assessment of first-aid and basic health care needs	<p>Appendix 1 is now the ‘Notice of Approval.</p> <p>(To be consistent with HSE’s current ACoP template)</p>

ACoP	Original Para	Original text / heading	Changed text / summary
	Appendix 1	Assessment of first-aid and basic health care needs	This is now labelled Appendix 2
	Appendix 2	Roles and responsibilities of offshore medics	This is now labelled Appendix 3 and re-titled; "Roles, responsibilities and competencies of offshore medics"

ACoP	Original Para	Original text / heading	Changed text / summary
	Appendix 2	Roles and responsibilities of offshore medics	<p>The following are a list of changes to this appendix;</p> <p>Para 1:- Final sentence, "objectives" has been replaced by "Competencies". It now reads:</p> <p>"The competencies set out in this appendix are based on the principle that the offshore medic's general responsibilities are:"</p> <p>Para 1(c) has been sub divided as follows;</p> <p>"to arrange, in conjunction with shore-based medical services, for the continued treatment and further care of ill or injured people. While minor ailments may be treated on the offshore installation or vessel, some conditions may involve sending the person ashore. The offshore medic should be able to:</p> <p>(i) carry out resuscitation and stabilise a patient before evacuation ashore;</p> <p>(ii) advise management of the need for an evacuation;</p> <p>(iii) assess in consultation with the approved medical practitioner (likely to be onshore) the seriousness of the condition and the urgency of the treatment. This assessment should take account of weather conditions and the distance and accessibility of onshore emergency medical services;</p> <p>Para 1(f):- Now reads;</p> <p>"to give simple advice on the management of health, welfare and wellbeing issues offshore"</p>

ACoP	Original Para	Original text / heading	Changed text / summary
	Appendix 3	Roles and responsibilities of offshore first-aiders	<p>This is now labelled Appendix 4, updated and re-titled;</p> <p>“Roles, responsibilities and competencies of offshore first-aiders”</p>

ACoP	Original Para	Original text / heading	Changed text / summary
	Appendix 3	Roles and responsibilities of offshore first-aiders	<p>Following Appendix 3 Para 2 a new sub heading is inserted;</p> <p>“Competencies”</p> <p>Under this heading the contents of Appendix 5 has been inserted.</p> <p>However, the original sub heading “Refresher Courses for Offshore First-aiders” is replaced by the sub heading:- “Requalification Courses for Offshore First-aiders”.</p> <p>The following updated text replaces Para’s 1 – 4 of Appendix 5 and also reflects the guidance that can be found in the HSE publication:-</p> <p>“Offshore medic training and qualifications for the purposes of The Offshore Installations and Pipeline Works (First-Aid) Regulations 1989, A guide for training organisations</p> <p>The updated text reads;</p> <p>“On completion of their training successful candidates need to be able to demonstrate the following competencies”: <i>(these are as listed in the original Appendix 5 Para 1 sub Para’s)</i></p> <p>“Training courses in offshore first aid, including examinations, should not be less than 30 contact hours, spread over no less than four days.</p> <p>Offshore first-aid certificates are valid for</p>

ACoP	Original Para	Original text / heading	Changed text / summary
	Appendix 4	Training objectives for offshore medics	Has been merged into the new Appendix 3 ("Roles, responsibilities and competencies of offshore medics") and used to provide guidance on 'Competencies'
	Appendix 5	Competencies for offshore first-aiders	Has been merged into the new Appendix 4 ("Roles, responsibilities and competencies of offshore first-aiders")
	Appendix 6	Criteria for approval of training providers	HSE has deleted this Appendix as the current guidance contained within 'Offshore First-Aid training & qualifications (WEB 43) and Offshore Medic training & qualifications (WEB 44) now supersedes this Appendix.

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