Guidance Notes

Decommissioning of Offshore Oil and Gas Installations and Pipelines under the Petroleum Act 1998

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INTRODUCTION

The decommissioning of offshore oil and gas installations and pipelines on the United Kingdom Continental Shelf (UKCS) is controlled through the Petroleum Act 1998, as amended by the Energy Act 2008.

The UK's international obligations on decommissioning are governed principally by the 1992 Convention for the Protection of the Marine Environment of the North East Atlantic (OSPAR Convention). Agreement on the regime to be applied to the decommissioning of offshore installations in the Convention area was reached at a meeting of the OSPAR Commission in July 1998.

The responsibility for ensuring that the requirements of the Petroleum Act 1998 are complied with rests with the Department of Energy and Climate Change (DECC). DECC is the competent authority on decommissioning in the UK for OSPAR purposes.

The aim of these notes, which have been prepared by DECCS's Offshore Decommissioning Unit in Aberdeen, in consultation with other Government Departments, is to provide guidance to those engaged in preparing programmes for the decommissioning of offshore installations and pipelines. Account has been taken of views expressed by operating companies and other interested parties.

These guidance notes, which were first issued in August 2000, provide a framework and are not intended to be prescriptive. They will be reviewed regularly and updated as necessary. We intend to make the process of submission and approval of a decommissioning programme as flexible as possible within statutory and policy constraints, allowing adequate time for full and considered consultation but without unnecessary delay. We recognise that circumstances will vary from case to case and that differing approaches may be required.

Furthermore, whilst these guidance notes are intended to provide fairly detailed guidance to those engaged in preparing decommissioning programmes, they should not be read in isolation from the relevant legislation.

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1. GOVERNMENT POLICY AND THE UK'S INTERNATIONAL OBLIGATIONS

Policy

1.1 Government will seek to achieve effective and balanced decommissioning solutions, which are consistent with international obligations and have a proper regard for safety, the environment, other legitimate uses of the sea, economic considerations and social considerations. Our policies and practices on decommissioning will recognise the need to:

- maximise energy production as a contribution to UK energy security, and
- take impacts on climate change into account.

1.2 DECC will seek to ensure that:

- interested parties have a clear view of the policy and the procedures;
- decisions on decommissioning proposals are based on full information, are taken in an efficient manner and place as little administrative burden as possible on the various parties concerned;
- decommissioning decisions are consistent with waste hierarchy principles and are taken in the light of full and open consultations;
- decommissioning will be regarded as the last option after re-use of the facilities for energy or other projects has been ruled out;
- disposal decisions in respect of installations that are candidates for derogation from OSPAR Decision 98/3 are judged against the criteria and approach set out in Annex A to this guidance.
- comparative assessments of decommissioning options take account of impacts on climate change;
- forums exist for the sharing of information, experience gained and lessons learned.

International Obligations

1.3 The UK's international obligations on the decommissioning of offshore installations have their origins in the United Nations Convention on the Law of the Sea of 1982. The Convention entered into force in 1994 and the UK acceded to it in 1997. Article 60(3) includes the following:

"Any installations or structures which are abandoned or disused shall be removed to ensure safety of navigation, taking into account any generally accepted international standards established in this regard by the competent international organisation. Such removal shall also have due regard to fishing, the protection of the marine environment and the rights and duties of other States. Appropriate

publicity shall be given to the depth, position and dimensions of any installations or structures not entirely removed".

1.4 The competent international organisation for this purpose is the International Maritime Organisation which in 1989 adopted the IMO Guidelines and Standards setting out the minimum global standards for the removal of offshore installations.

1.5 In 1992 a new convention, the Convention on the Protection of the Marine Environment of the North East Atlantic ("the OSPAR Convention"), was agreed. This regional convention, which applies to specific sea areas of the North East Atlantic, including the North Sea and parts of the Arctic Ocean, replaced and updated the 1972 Oslo Convention on the Protection of the Marine Environment by Dumping from Ships and Aircraft and the 1974 Paris Convention on the Prevention of Marine Pollution from Land-Based Sources. The OSPAR Convention came into force on 25 March 1998.

1.6 In July 1998 at the First Ministerial meeting of the OSPAR Commission, a new regime for the decommissioning of disused offshore installations was established under the new Convention. Ministers adopted a binding Decision (*OSPAR Decision 98/3 - reproduced at Annex B*) to ban the disposal of offshore installations at sea.

1.7 Pipelines are not covered by OSPAR Decision 98/3. There are no international guidelines on the decommissioning of disused pipelines. Section 10 describes UK policy.

The Main Features of OSPAR Decision 98/3

1.8 Under the terms of Decision 98/3, which entered into force on 9 February 1999, there is a prohibition on the dumping and leaving wholly or partly in place of offshore installations. The topsides of all installations must be returned to shore. All installations with a jacket weight less than 10,000 tonnes must be completely removed for re-use, recycling or final disposal on land.

1.9 The Decision recognises that there may be difficulty in removing the 'footings' of large steel jackets weighing more than 10,000 tonnes and in removing concrete installations. As a result there is a facility for derogation from the main rule for such installations. It has been agreed that these cases should be considered individually to see whether it may be appropriate to leave the footings of large steel installations or concrete structures in place. Nevertheless, there is a presumption that they will all be removed entirely and exceptions to that rule will be granted only if the assessment and consultation procedure, which forms part of the OSPAR Decision, shows that there are significant reasons why an alternative disposal option is preferable to re-use or recycling or final disposal on land.

1.10 The derogation provision for the footings of large steel installations applies only to those installed before 9 February 1999. All steel installations placed in the maritime area after that date must be totally removed. It should also be

noted that the Ministerial 'Sintra' statement which accompanied Decision 98/3 made clear that new concrete installations would be used only when it is strictly necessary for safety or technical reasons.

1.11 The Decision provides for review by the OSPAR Commission at regular intervals, to consider in the light of experience and technical developments whether the derogations from the general ban on dumping continue to be appropriate. The most recent review, conducted in 2008, concluded that the limited operational experience to date of decommissioning concrete substructures and footings of large steel installations is insufficient to justify changing the derogation criteria. Nevertheless, there is a clear intent within the Decision to reduce the scope of possible derogations and it can be expected that future derogation cases presented to OSPAR will be judged against the advances in technology or contractor capabilities that may have been achieved at the time. A further review of the Decision will be undertaken in 2013.

2. LEGISLATION

Description of the Legislation

2.1 Before the owners of an offshore installation or pipeline can proceed with its decommissioning they must obtain approval of a decommissioning programme under the Petroleum Act 1998. It should be noted that although the Petroleum Act 1998 refers to an 'abandonment programme' the preferred and generally accepted term is a 'decommissioning programme'.

2.2 Under the 1998 Act a decommissioning programme should contain an estimate of the cost of the measures proposed; specify the times at or within which those measures are to be taken or make provision for determining those times; and, where an installation or pipeline is to remain in position or be only partly removed, include provision for maintenance where necessary. It is recognised that where appropriate a decommissioning programme will deal with both removal and disposal of an installation or pipeline. The contents of a decommissioning programme are set out more fully *in Section 6 of and Annex C to this guidance*.

2.3 In addition to approval of a decommissioning programme, the following will also need to be obtained as appropriate:

- confirmation that the requirements of the Coast Protection Act 1949, Section 34, Part II have been satisfied;
- acceptance of a Dismantlement Safety Case under the Offshore Installations (Safety Case) Regulations 2005 (installations only);
- fulfilment of notification requirements to Health and Safety Executive (HSE) under regulation 22 of the Pipeline Safety Regulations 1996;
- any environmental consents or permits required during decommissioning activity;
- approvals for the shipment of waste; and
- approval of a well abandonment programme in accordance with the obligation contained in the petroleum production licence.

2.4 It is recognised that certain preparatory works which do not prejudice decommissioning options should be able to be carried out before approval of a decommissioning programme e.g. removal of some equipment and cleaning. Details will be discussed with the Operator in each case.

2.5 If a decommissioning programme includes any new deposits in the sea, for example, of rock gravel or grout bags, a licence may be required under Part II of the Food and Environment Protection Act 1985.

2.6 The disposal of materials onshore must comply with the relevant health, safety, pollution prevention and waste requirements, including in particular Parts I and II of the Environmental Protection Act 1990.

2.7 In certain circumstances additional authorisation under the Radioactive Substances Act 1993 may be necessary.

2.8 It is the responsibility of the Operator or contractor, as appropriate, to obtain the necessary approvals and authorisations.

2.9 Annex D describes in outline the legislation other than the Petroleum Act 1998 which applies to decommissioning and the Government body responsible for its administration. This includes a list of the main consents and authorisations that are likely to be required in addition to the approval of a decommissioning programme. (*See also Annex E*). The environmental regulations that apply to offshore decommissioning activity are set out in *Section 12.*

Petroleum Act 1998

2.10 The principal legislation is the Petroleum Act 1998 (the 1998 Act) which is administered by DECC.

2.11 Part IV of the 1998 Act provides a framework for the orderly decommissioning of disused installations and pipelines on the UKCS.

2.12 The principal provisions of Part IV of the 1998 Act:

- enable the Secretary of State, by written notice, to require the submission of a costed decommissioning programme for each offshore installation and submarine pipeline. Those persons given notices are jointly liable to submit a programme;

- where a decommissioning programme is approved by the Secretary of State, make it the (joint and several) duty of the persons who submitted it to secure that it is carried out;

- provide the Secretary of State with means to satisfy himself that any person who has a duty to secure that an approved decommissioning programme is carried out will be capable of discharging that duty and, where he is not so satisfied, require that person, by notice, to take such action as may be specified;

- in the event of failure by those given notice to submit a programme or secure that it is carried out, enable the Secretary of State to do the work and recover the cost from those given notice;

- provide penalties for failure to comply with notices; and

- enable the Secretary of State to make regulations relating to decommissioning.

Charging a fee for approving and revising offshore decommissioning programmes.

2.13 It is a fundamental principle of the decommissioning regime that a person who is responsible for developing or operating an offshore installation/pipeline should also be responsible for decommissioning at the end of its useful life. The Department therefore intends to charge Industry a fee for approving and revising offshore (oil and gas) decommissioning programmes rather than passing the costs onto the taxpayer which is in line with the 'polluter pays' principle of environmental law.

2.14 Section 29 of the 1998 Act allows the Department to charge a fee in respect of its expenditure under Part 4 of the 1998 Act when a person submits an abandonment programme. The Secretary of State also has a power to charge a fee in respect of a proposal to revise an abandonment programme (section 34(4)).

2.15 The charging mechanism will allow the Department to recover its expenditure for the exercise of its functions under Part 4 of the Act 1998. The Department will not be seeking to make a profit from such a charge but merely recover its costs in carrying out those functions.

2.16 The Department will shortly be undertaking a twelve-week consultation to seek views of relevant stakeholders on the proposals to charge a fee in respect of offshore (oil and gas) installations and pipelines decommissioning programmes. Subject to the outcome of this consultation and the Parliamentary process, when Regulations are made to implement the proposals set out in the consultation document, the Department will update the Guidance Notes further to reflect this.

Energy Act 2008: Oil and Gas Decommissioning

2.17 Chapter 3 of Part 3 of the Energy Act 2008 ("the 2008 Act") amends Part IV of the Petroleum Act 1998. The 1998 Act consolidated provisions from the Petroleum Act 1987. Since the regime was originally established in 1987 there have been changes in business practices in the oil and gas industry, such as increased participation by smaller companies which have fewer assets and as such bring increased risks that they might not be able to meet their decommissioning liabilities. Moreover, experience has shown that it has not always been possible to share liabilities equitably between parties responsible for any installation or pipeline.

2.18 The detailed oil and gas provisions of the 2008 Act are discussed in *section 3*. In summary, the 2008 Act amends the regime by:

- Enabling the Secretary of State to make all the relevant parties liable for the decommissioning of an installation or pipeline and, where a licence covers multiple sub-areas, clarifying which licensees will be liable.

- Giving the Secretary of State power to require decommissioning security at any time during the life of an oil or gas field if the risks to the taxpayer are assessed as unacceptable.

- Protecting the funds put aside for decommissioning, so in the event of insolvency of the relevant party, the funds remain available to pay for decommissioning and the taxpayers' exposure is minimised.

Energy Act 2008: Gas Storage and Import Infrastructure and Carbon Capture and Storage

2.19 Gas production from the UKCS is declining and it is expected that the UK will be reliant on imported gas to meet well over half of demand by 2020. Without sufficient and timely new storage and import infrastructure, there will be increased risks of a tight gas supply demand balance in the UK in the future. Companies have already responded to declining UK gas production by investing in new gas storage and import infrastructure. However, additional investment

will be needed as production declines and companies investing in the UK have sought a clear and stable regulatory framework.

2.20 Prior to the 2008 Act, the UK's offshore legislative regime was primarily designed for licensing oil and gas production. Chapter 2 of Part 1 of the 2008 Act creates a new regulatory framework specifically designed for offshore gas storage and Liquefied Natural Gas (LNG) unloading projects. In addition, paragraphs 10 and 11 of Schedule 1 amend the definition of the parties that can be required to submit a decommissioning programme and the definition of an offshore installation specified in Part IV of the 1998 Act. This ensures the decommissioning of offshore gas storage and importation infrastructure can be governed by the provisions in the 1998 Act.

2.21 Carbon Capture and Storage (CCS) is a process involving the capture of carbon dioxide from the burning of fossil fuels and its transportation and storage in secure spaces, such as geological formations, including under the seabed. CCS can be applied to a range of industrial processes including coal-fired and gas-fired electricity generation. It has the potential to reduce carbon dioxide emissions by up to 90% of standard coal-fired generation. The Government is committed to the development of CCS with electricity generation. Most of the activities involved are standard industrial processes and can be regulated by established legislation. However, permanent storage of carbon dioxide is a novel activity, and pre 2008 legislation to control depositions below the surface of the land and seabed is not well suited to licensing the storage of carbon dioxide. Chapter 3 of Part 1 of the 2008 Act establishes a framework for the licensing of carbon dioxide storage and enforcement of the licence provisions. It also applies existing offshore legislation, including the decommissioning provisions of Part IV of the 1998 Act, to offshore structures used for this purpose (see section 30 of the 2008 Act). It is recognised that as CCS is a novel activity it may prove necessary over time as experience is gained to modify Part IV of the 1998 Act and section 30 also enables regulations to be made modifying the provisions of Part IV in relation to CCS.

2.22 The decommissioning provisions of Part IV of the 1998 Act therefore apply to offshore facilities established for the purposes of gas storage, LNG unloading projects and CCS. The framework for decommissioning outlined in these guidance notes is therefore relevant to such projects and will be updated to reflect this as experience is gained. However, it should be noted that although the provisions of chapter 3 of the 2008 Act will apply to the territorial sea adjacent to Scotland (0 to 12 nautical miles), Scottish Ministers have the relevant legislative, licensing and enforcement powers for CCS projects in this area. The functions of Part IV of the 1998 Act will be exercised by the Scottish Ministers in the case of carbon dioxide storage installations licensed by them. Correspondence regarding the decommissioning of CCS infrastructure in the territorial sea adjacent to Scotland should therefore be addressed to the Scottish Government.

3. DECOMMISSIONING OBLIGATIONS UNDER THE PETROLEUM ACT 1998

The Process

3.1 Section 29 of the 1998 Act enables the Secretary of State to serve notices requiring the recipient to submit a costed decommissioning programme for his approval at such time as he may direct. The programme (referred to in the 1998 Act as an "abandonment programme") should contain the measures the notice holder(s) propose to take in connection with the decommissioning of the installation(s) or pipeline(s) listed. The 1998 Act consolidated Parts I and II of the Petroleum Act 1987 with various other petroleum enactments. Notices previously served under section 1 of the 1987 Act will continue to be valid. Amendments made to the 1998 Act by the Energy Act 2008 are incorporated in the following paragraphs and detailed later within this section.

3.2 For installations, notices may be served not only on the licensees but also on the company that manages the installation (we expect this to be the Operator, see paragraph 3.15), the owners of the installation and the parties to a Joint Operating Agreement (JOA) or similar agreement. In the first instance, notices will be served on all the companies in these categories. However, notices under section 29 may also be served on parents or other associates. The option of serving more widely will be pursued only in cases where it is judged that satisfactory arrangements, including financial, have not or will not be made to ensure a satisfactory decommissioning programme is carried out.

3.3 The administrative process is started when a field development is approved and construction of the installation has commenced. If it has not been included as part of the field development plan, at this stage DECC will send a Facility Information Request (FIR) to the person with management responsibility for the field (the Operator). This asks the Operator to confirm the accuracy of information relating to installations, pipelines and companies involved in the field.

3.4 Once the FIR has been returned, DECC will send the company that operates the installation, the owners and the relevant licensees and JOA parties a 'warning letter'. This communication warns the recipient that the Secretary of State is considering issuing him a notice under section 29 of the 1998 Act and provides him with the opportunity to make written representations if he considers that he should not be given such a notice. The recipients are given up to 30 days in which to make representations although this period may be shorter for a fast track development. Following this, subject to any representations received, a 'section 29 notice' is issued to each of the parties.

3.5 Relevant licensees and JOA parties will be those that are entitled to derive a financial or other benefit from the installation. The benefit must arise as a result of using the installation for purposes for which it is, or will be, established or maintained (see paragraph 3.23, multiple sub-area bullet point, for further details).

3.6 The serving of a notice for pipelines follows the same procedure as for installations. In most cases, notices are issued only to the owners of a pipeline. However, notices may also be served on parents or other associates where we have concerns about the arrangements to ensure satisfactory decommissioning. For pipelines, notice serving procedures are instigated when the pipeline works authorisation is given and construction has commenced.

3.7 By this process the obligation to submit a decommissioning programme on or before such date as the Secretary of State may subsequently specify, is placed upon each of the appropriate companies. The notice also advises of the requirement to carry out consultations with specific parties, including fishermen's organisations and other interested bodies (*see Annex H*), when preparing a programme. A list of the organisations to be consulted will be sent to each of the notice holders nearer the time of decommissioning.

3.8 The time between serving an initial section 29 notice and the point at which the Secretary of State calls for a decommissioning programme may be considerable. We expect to call for a programme towards the end of the life of the field and the facilities. However, in certain circumstances, for example the early shut down of the field, the Secretary of State may call for the programme at an earlier stage.

3.9 All section 29 notice holders, whether or not they have sold their interest in a field, are treated equally in law and will be required to agree the decommissioning programme. The obligation to carry out the approved decommissioning programme is joint and several. This is an important concept which means that if any one of those with a duty to carry out a programme is unable to do so, the other interested parties will be responsible for the defaulting party's burden. Ultimately, this could result in one party being liable for the full decommissioning costs. As a consequence the Department would therefore expect to be notified in the event of a company dissolution. In practice, the Operator is expected to lead on the preparation and implementation of the programme.

3.10 Once the decommissioning obligation has been fixed by means of the section 29 notice, it remains so unless it is withdrawn by the Secretary of State. If a company disposes of its interest in the installation(s) or pipeline(s) on a field, the Secretary of State will consider whether to exercise his discretion under section 31(5) to withdraw the notice (*see Section 4 and Annex F for information taken into account when considering withdrawal*). The other companies who have received notices for that installation or pipeline will be sent a letter advising them of the proposed withdrawal and will be given up to 30 days in which to make written representations although this period may be shorter to meet the timescale of the deal.

3.11 If a notice is withdrawn this does not necessarily mean that the company will have no decommissioning responsibilities in relation to the equipment. In accordance with section 34 of the 1998 Act, a company may, in certain circumstances and following the approval of a programme, be placed under a

duty to carry out that programme even though it has previously been released from a notice under section 31(5). Section 34 also enables the Secretary of State to do the same with any person on whom notices could have been served since the serving of the first section 29 notice. This situation has not occurred to date and we regard it as a measure of last resort. In the first instance, the Secretary of State would expect the current section 29 notice holders to carry out the decommissioning and would only use the powers in section 34 in potential default cases which we endeavour to avoid by the use of prudent security arrangements. If such action was necessary in respect of more than one company we would aim to agree a fair and reasonable distribution of the liabilities in discussion with the companies concerned. This might be related to the revenues earned by the various companies during their involvement in the field and DECC would want to consider the companies' proposals for dealing with the situation.

3.12 At the same time as the Secretary of State considers whether to withdraw the notice from an exiting party, if the incoming company is not already in receipt of a section 29 notice, DECC will instigate the notice serving process outlined in paragraph 3.4. A 'warning letter' will be sent to the new company, which, subject to any representation, will be followed by a section 29 notice. At this stage it is not necessary to precede the warning with a FIR as the relevant information will be retained from the original FIR sent around the time of field approval.

3.13 Where a section 29 notice is not withdrawn the notice holder would not be liable for any new installations emplaced in the field after the assignment of their interest. However they would be liable for any new equipment added to an installation already covered by their existing notice.

3.14 If a company has concerns relating to a specific section 29 case they should contact DECC's Offshore Decommissioning Unit for further clarification.

Manager of an Installation

3.15 The increasing use of contractors taking on the day-to-day management of an installation has led to queries regarding whether or not the contractor would receive a section 29 notice as the manager of the installation falling within section 30(1)(a) of the 1998 Act. The wording of section 30(1)(a) indicates only one person can manage the installation and our interpretation is that the Operator approved by the Secretary of State under the Petroleum Act licence would be the manager. We do not treat contractors providing a service to the Operator as a manager within section 30(1) (a) of the Act. Companies are welcome to ask if a particular contractual situation might create liabilities.

3.16 DECC has been asked if the Operator of the host installation would become the manager of a tieback if the tieback Operator defaulted. It was clear that the host platform Operator had no authority to make strategic managerial decisions regarding the tieback field and no entitlement to the tieback's production. We consider that a benefit must arise from the exploitation or

exploration of mineral resources or storage or recovery of gas for which the tieback installation is, or will be, established or maintained. This will not include the host Operator if they are only receiving a tariff for transporting production from the tieback via the host installation (see paragraph 3.23, multiple sub-area bullet point, for further details). DECC took the view that the host Operator would not be regarded as the manager of the tieback installation.

Definition of an Installation – Tiebacks

3.17 The increasing use of tiebacks to host platforms raises the question whether the tieback should be treated as a separate installation for the purposes of Part IV of the 1998 Act. Where the tieback is separate, under the 1998 Act (as amended by the 2008 Act), only licensees and JOA parties that benefit from the oil or gas production from the field for which the tieback installation was built, or is maintained, will be served with a notice under section 29 for that installation. If the tieback is considered part of the host installation it is not possible to separate the liability from the host.

3.18 Although a tieback depends on the host installation to transport (and sometimes process) the production, we do not believe this automatically makes the tieback part of the host installation. Many tiebacks could switch to another host platform if it offered a better deal justifying building a new link. In addition, very few installations on the UKCS are truly independent. Most share pipelines to get their production ashore and many share processing, accommodation or control facilities.

3.19 We consider the following parameters in determining when it is reasonable and proportionate to treat tiebacks as separate installations:

1. Whether a tieback exploits a different field to that used by the host installation.

2. Whether a tieback has a structure on the seabed or on a jacket which comprises at least one wellhead producing oil or gas, probably a protection structure and possibly a manifold connecting pipelines.

3. Whether a tieback is on a different licence to the field exploited by the host installation.

4. Whether there are different licence groups for the tieback and host.

3.20 Whether the tieback will be treated separately will be determined on the facts of the case and where it exploits a separate field and there is a new structure on the seabed (parameters 1 and 2), it is anticipated it will be treated as a separate installation. If these factors do not apply, there would need to be another strong reason to justify regarding the tieback as separate. Where a tieback is part of the host installation, it is for the companies concerned to decide whether and how to apportion the costs of decommissioning as the legislation is silent on this point.

3.21 An extended reach well is not considered to be a separate installation. Although the field may be geologically separate from that exploited by the host, the well is drilled from the host platform and is connected back to the host for production; there is no separate seabed or surface facility to treat as an installation.

Energy Act 2008 Amendments

3.22 Chapter 3 of Part 3 of the 2008 Act amends Part IV of the 1998 Act. The relevant oil and gas provisions are detailed below.

Section 72: Persons who may be required to submit abandonment programmes

3.23 This section of the 2008 Act makes amendments to section 30 of the 1998 Act to extend the range of persons who may be given a notice under section 29, and who may therefore be required to submit a decommissioning programme.

- **Licence Holders:** Subsection (2)(a) inserts a new paragraph into section 30(1) of the 1998 Act. This extends the regime to include licensees who have transferred an interest in a licence to another party without the prior approval of the Secretary of State. Licences may not be transferred from one company to another without DECC's consent. Unconsented transfers are nevertheless effective. DECC is not aware of cases where unconsented transfers have been made with fraudulent or criminal intent. However, there have been a number of cases where unconsented transfers appear to have happened because of carelessness by the companies involved. For example, where DECC has consented to a transfer to one subsidiary and then the transfer is altered so that the transfer is actually made to a different subsidiary, without getting a revised DECC consent.

- **Limited Liability Partnerships:** Subsections (2)(b) and (3) amend paragraphs (1)(e) and (2)(c) of section 30 of the 1998 Act to substitute references to "company" with "body corporate". In addition, subsection (5) substitutes five new subsections for section 30(8) of the 1998 Act and subsection (6) amends section 30(9) of the Act. These provisions set out the test for determining whether, for the purpose of section 30, one company is associated with another. The effect of the amendments and the new subsections is to substitute references to "company" with "body corporate" and to provide the test for whether one body corporate is associated with another. The purpose of these provisions is to bring limited liability partnerships within the scope of the association provisions of section 30 and, therefore, treat them as persons which may be served with a section 29 notice.

- **Timing of Notice Serving:** Subsection (4) amends subsection (5)(b) of section 30 of the 1998 Act. Subsection (5)(b) provides that a person who may be required to submit a programme includes a person who is already

carrying on certain activities (such as exploitation of mineral resources) on an offshore installation. The amendment extends these provisions so that they also apply to persons who intend to carry on such activities in the future. This enables licensees and parties to joint operating or similar agreements to be served with a notice at the same time as the person who manages the installation e.g. before production begins.

- **Multiple Sub-Area/Multiblock Licences:** Petroleum exploration and extraction licences issued under either the 1998 Act or the Petroleum (Production) Act 1934 tend to be divided by the licensees at a commercial/contractual level into separate sub-areas. As a result, some of the licensees may have no commercial interest in a particular sub-area, and therefore no interest in an installation in that sub-area. Paragraphs (b) and (c) of section 30(1) of the 1998 Act give the Secretary of State the power to make all licensees and parties to joint operating or similar agreements jointly and severally liable for decommissioning every installation in the licensed area regardless of whether they benefit or have the potential to benefit from the particular installation. Subsection (7) inserts four new subsections into section 31 of the 1998 Act preventing the Secretary of State from serving a decommissioning obligation on licensees and parties to joint operating (or similar) agreements if they have never been entitled to derive a relevant financial or other benefit from the installation in question.

As a result of the new subsection (A1) of section 31, if a person has never been entitled to derive any benefit, whether financial or other, from the installation, the Secretary of State will no longer be able to serve a notice under section 29 to that person if they fall within paragraphs (b) or (c) of section 30(1) and have never been within paragraphs (a), (ba) – see first bullet point above, (d) or (e). Subsections (B1) and (C1) specify that a relevant financial or other benefit will not arise as a result of using the installation for purposes other than those for which it is, or is to be, established or maintained. In addition by virtue of subsection (D1) of section 31, a person that is within paragraph (e) of section 30(1) by virtue of his association to a person exempted by the new provision will be similarly exempt.

Subsection (8) of section 72 of the Energy Act 2008 extends the above provisions to section 34 of the 1998 Act. Section 34 specifies the persons that may be given a duty to carry out an existing approved programme. As a result of the new subsection it is not possible to propose that a licensee or a party to a joint operating (or similar) agreement should be added as a party to the programme if that person has never been entitled to derive any benefit from the installation covered by the programme and has never been within paragraphs (a), (ba) – see first bullet point above, (d) or (e) of section 30(1).

The benefit referenced in the above paragraphs must arise from the exploitation or exploration of mineral resources or storage or recovery of gas from the field for which the installation was built or is maintained. The intention is to capture benefits which are the substantive equivalent of an

ownership or equity interest in the field and installation e.g. by receiving production or payments, royalties or bonuses in lieu of production. By contrast, a person would not be treated as benefitting from activities on an installation simply by virtue of (a) either providing or receiving inter-field services under a standard transportation, processing and operating agreement (b) buying oil or gas production from the installation (c) trading carbon dioxide allowances or (d) supplying goods or services to the installation.

Section 73: Financial resources etc

3.24 This section of the 2008 Act clarifies the information which may be required to satisfy the Secretary of State of a person's ability to fund its decommissioning obligations, or potential obligations. It also makes provision to bring forward the time when the Secretary of State may require a person to take relevant action (such as providing financial security, for example a letter of credit), in order to reduce the financial risk to the taxpayer.

- **Information Gathering, Prior to Serving Notice Under 29 or Imposing Decommissioning Obligation:** Subsection (2) substitutes three new subsections for subsection (1) of section 38 of the 1998 Act. Section 38 sets out that the Secretary of State can, by issuing a notice, require specified financial information and documents (for example up to date management accounts) in relation to a decommissioning programme. It also creates an offence for non-compliance with the notice and for knowingly providing false information. The purpose of the amendments is to widen the circumstances in which the Secretary of State may give such a notice to determine whether he wishes to impose a decommissioning obligation on a person by serving a notice under section 29 or by adding that person to an existing approved programme (and making them subject to the obligations within that programme).

- **Information Gathering, After Serving Notice Under Section 29 or Imposing Decommissioning Obligation:** Subsections (3) and (4) make amendments to subsection (2) of section 38 of the 1998 Act and insert a new subsection (2A). This provision allows the Secretary of State to require more specific information which could include: a detailed estimate of the costs of decommissioning; predictions of future revenue; the costs and benefits of any plans for further development; or up to date management accounts.

  Under the 1998 Act the provision for such information could not be required prior to the approval of a programme. This amendment allows such information to be required from persons who have been served with a notice under section 29, in addition to those under a duty to carry out a decommissioning programme. This enables the Secretary of State to assess whether to require financial security.

- **Require Action, Including Establishing Financial Security:** Subsection (5) substitutes new subsections (4) and (4A) for section 38(4) of the 1998 Act. These enable the Secretary of State, after consulting the Treasury, to require action (including the provision of financial security, such as a letter of credit) to be taken by a person who has been served with a notice under section 29 or who has a duty to carry out a programme, where the Secretary of State is not satisfied that the person is capable of carrying out the programme. Previously the Secretary of State only had the ability to require such action following the approval of a decommissioning programme. By enabling the Secretary of State to require action once a notice under section 29 has been served, but in advance of programme approval, the taxpayer can be protected against the early failure of a development. Prior to issuing a notice requiring the establishment of security the recipient will be given the opportunity to make representations regarding whether they should be given such a notice. Annex F details the risk assessment process used to determine when such mitigation measures may be necessary.

- **Offence to Disclose Information:** Subsection (6) makes it an offence to disclose information obtained under section 38(1) or (2) of the 1998 Act without the consent of the person who provided it, unless the disclosure is required for the purposes of the exercise of the Secretary of State's functions under the Act or another piece of legislation. Section 40 of the 1998 Act sets out the penalties that apply if an offence is committed under subsection (6). This ensures the ongoing confidentiality of any cost or financial data submitted.

Section 74: Protection of abandonment funds from creditors

3.25 This section inserts two new sections into the 1998 Act after section 38, to protect funds set aside for the purposes of decommissioning in the event of insolvency.

- **New section 38A: Protection of funds set aside for the purposes of abandonment programme.** This section is designed to ensure that, in the event of the insolvency of a person responsible for a decommissioning programme or a person with obligations under that programme, the funds set aside for meeting those liabilities remain available for decommissioning and are not available to the general body of creditors. The protection in the event of insolvency applies where any funds have been set aside in a secure way (such as a trust or other arrangement which was established on or after 1 December 2007) for meeting obligations under a programme. This provision applies whether the security is established before or after the programme's approval, as long as it is clear in the arrangement that it has been established to secure the obligations under the programme.

  Subsection (4) provides that the term "security" has a wider interpretation for the purpose of funds which will be protected from creditors in the

event of insolvency. The list, which is non-exhaustive, provides examples of the interpretation of security. Without such a definition, a court could take a more restricted legal view. This in turn could mean that an instrument that was intended to be used to meet some or all of the decommissioning costs could be accessed by creditors in the event of the operator's insolvency.

To enable protection of the funds, subsection (6) specifically disapplies any provision of the Insolvency Act 1986, the Insolvency (Northern Ireland) Order 1989 or any other enactment or rule of law the operation of which would prevent or restrict the security being used for the purpose for which it was set up (meeting decommissioning liabilities). Subsection 7 extends the meaning of "enactment" to include Acts of the Scottish Parliament.

- **New section 38B: Directions to provide information about protected assets.** This section is intended to ensure that creditors and potential future creditors of a person responsible for a decommissioning programme are aware of any decommissioning funds affected by the new powers to disapply insolvency legislation. The publication of information regarding relevant security arrangements will enable informed decisions to be made by creditors and potential future creditors. Subsections (1) and (2) therefore set out that the Secretary of State may give a direction to a person responsible for a programme to publish details of the fund or other arrangements at the time and in the manner specified by the Secretary of State (for example in the financial pages of that person's website). Subsection (3) enables the Secretary of State or a creditor of the person responsible for the decommissioning programme to apply for a court order to ensure compliance with a direction.

Section 107 and Schedule 5: Minor and consequential amendments

3.26 Paragraphs 9 and 10(b) of Schedule 5 amend section 31(1) and section 34(3) of the 1998 Act. Subsection (1) of section 31 provides that the Secretary of State may not give notice under section 29 to certain persons specified in section 30(1) if the Secretary of State has been and continues to be satisfied that adequate arrangements (including financial) have been made by other persons so specified. Similarly, section 34(3) provides that the Secretary of State shall not propose that certain persons specified in section 30(1) shall be given a duty to secure that an approved programme is carried out unless it appears to him that one of the current parties has or may default. The effect of the new provisions is to provide that these limitations will no longer apply to persons specified in paragraph (d) of section 30(1) (a person who owns any interest in an installation otherwise than as security for a loan). There is increasing use of floating production systems where the ownership may change during the life of the field, and this amendment takes account of this change in practice, and enables the decommissioning risk to be spread to new owners with an interest in an installation.

3.27 Paragraph 10(a) of Schedule 5 extends the class of persons that can be given a duty to carry out an approved programme to include licensees who have transferred an interest in the licence to another party without the prior approval of the Secretary of State. This is in line with section 72 subsection (2)(a) outlined above.

3.28 Paragraph 11 of Schedule 5 inserts text into section 45 of the 1998 Act (Interpretation of Part IV) so that the definition of "submarine pipeline" includes a pipeline which is intended to be established. This enables notices under section 29 to be served for submarine pipelines prior to installation, mirroring the existing requirements for offshore installations.

4. CHANGES OF OWNERSHIP AND FINANCIAL SECURITY AGREEMENTS

4.1 In recent years there has been a significant and increasing number of UKCS licence assignments from large companies to smaller ones. The introduction of innovative Licensing schemes such as 'Frontier' and especially 'Promote' licences has brought a number of new companies to the UKCS. Ministers have agreed that such activity on the UKCS should be encouraged and that there should be a free trade in mature offshore oil and gas assets so as to extend field life and maximise economic recovery. At the same time the Government has a duty to ensure that the taxpayer is not exposed to an unacceptable risk of default in meeting the costs associated with decommissioning. To enable these two goals to be achieved, the Government has developed a policy to ensure that adequate security for decommissioning costs is maintained on a field by field basis. *The details of this policy, including the circumstances in which decommissioning security may be appropriate, are set out in Annexes F and G.*

5. PLANNING FOR DECOMMISSIONING

The Decommissioning Programme Process

5.1 The consideration and approval of decommissioning programmes for installations and pipelines will be co-ordinated by DECC's Offshore Decommissioning Unit in Aberdeen. The Unit will consult with the other Government Departments, Devolved Administrations and Agencies who have an interest in the consideration of decommissioning proposals. There may, however, be occasions when DECC will ask the Operator to make direct contact with a particular Government Department, for example, with the Department for Environment, Food and Rural Affairs or its agency, the Centre for Environment, Fisheries and Aquaculture Science on an aspect which may have specific implications for fisheries.

5.2 It is clear that our international obligations will result in the great majority of installations being returned to shore for re-use or recycling or final disposal on land. However, experience to date has shown that the circumstances surrounding individual cases will vary. For example, it may be appropriate for topsides or jackets to be re-used offshore without being returned to land; in such a case, proper consideration would need to be given to cleaning and to any waste which may arise. The technical, environmental, safety and economic issues will need to be considered carefully in each instance. The whole process leading to approval of a decommissioning programme is intended to be flexible, transparent and subject to public consultation.

5.3 The process involved in a typical case where the installation is being completely removed for re-use or recycling or final disposal on land can be illustrated as follows:

Decommissioning Programme Process - Main Stages

Stage 1	Stage 2	Stage 3	Stage 4	Stage 5
Preliminary discussions with DECC	Detailed discussions and submission of consultation draft programme to DECC, other interested parties and the public for consideration	Formal submission of a programme and approval under the Petroleum Act	Commence main works and undertake site surveys	Monitoring of site

5.4 Consideration of those cases involving concrete installations or large steel installations with a jacket weight greater than 10,000 tonnes will follow a similar process. However, in these cases it is expected that it will be necessary to undertake more extensive public consultations on the proposals. Operators will wish to discuss the details and the timing of such a 'dialogue' with DECC but there is likely to be benefit in initiating the process at an early stage, certainly at Stage 1 and possibly earlier. If discussion at Stage 1 suggests there is a case for seeking a derogation from the general rule of OSPAR Decision 98/3, a detailed assessment in accordance with the procedures set out in the Decision will have

to be carried out at Stage 2. In deciding whether a case has been made out for a derogation DECC will judge the assessment against the criteria set out in *Annex A.*

5.5 Consultations with the OSPAR Contracting Parties would be initiated by the Government at Stage 2. The more extensive consultations referred to above are likely to continue throughout Stages 1 and 2.

5.6 A flowchart setting out how the consideration of decommissioning proposals will operate in practice is at *Annex J*.

Stage 1

5.7 Early discussions between the Operator and DECC's Offshore Decommissioning Unit will ensure that timely action is being taken by the Operator and that the decommissioning process is well understood. The Offshore Decommissioning Unit will involve other Government Departments as necessary.

5.8 Discussions should commence well ahead of forecast cessation of operations. In the case of a large field with multiple facilities, this may be 3 years or more in advance. In the case of a potential derogation case it may be up to 5 years in advance. The onus rests with the Operator to initiate these discussions. At the same time the Offshore Decommissioning Unit will endeavour to maintain a more general dialogue with operators on their future UKCS plans in order to understand the likely timing of cessation of production from their fields and the implications for decommissioning of the infrastructure.

5.9 The Offshore Decommissioning Unit will advise of any particular factors or requirements that need to be taken into account in the light of circumstances existing at that time. Where appropriate DECC will encourage operators to co-operate with the view to a joint and integrated approach. DECC will also promote the sharing of technical information and experiences amongst operators (*see Section 17)*.

5.10 The Operator will be asked to outline the likely timetable of future events to form a basis for agreement on when more detailed discussions should commence and what documentation should be prepared in advance.

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Stage 2

5.11 This stage involves more detailed discussion of an Operator's decommissioning proposals and the consideration by Government and other interested parties of a consultation draft of the decommissioning programme.

5.12 With the more straightforward cases there may be little distinction in practice between Stages 1 and 2 with the need for only one or two meetings before the consultation programme can be submitted for Government

consideration. Drafting and consideration of those cases involving concrete installations or large steel installations with a jacket weight greater than 10,000 tonnes may be more complex. If an Operator seeks a derogation from the general rule of re-use, recycling or final disposal on land, the application will have to be considered in accordance with the assessment procedures set out in Annex 2 to OSPAR Decision 98/3.

5.13 Transparency and openness is an important aspect of any decommissioning decision. At the same time as submitting the programme for Government consideration, the Operator will be required to carry out consultations with interested parties. The extent of these consultations will be determined by the particular circumstances of the case. In all cases the Operator will be asked to undertake statutory consultations as provided for under section 29(3) of the Petroleum Act 1998. *The consultation process is described more fully in Section 6 of this guidance*. If consultations with other OSPAR Contracting Parties are necessary the process will be initiated at this stage by Government in accordance with the procedures set out in Annex 3 to OSPAR Decision 98/3.

Stage 3

5.14 Following the completion of consultations it should be possible for the Operator and the Offshore Decommissioning Unit to agree a final version of the programme. When this has been achieved the Secretary of State will call formally for submission of the programme under the 1998 Act.

Stage 4

5.15 This stage covers the implementation of the approved decommissioning programme up to the completion of site surveys. The programme will specify the arrangements by which DECC will be kept informed of progress and, where appropriate, will indicate the 'milestones' at which progress will be reviewed. Any revisions to the programme will be subject to the Secretary of State's approval in accordance with the provisions of section 34 of the 1998 Act.

5.16 At the conclusion of Stage 4 the Operator will be required to satisfy DECC that the approved programme has been implemented. This will normally involve the submission of a Close-out Report within four months of the completion of offshore work, including debris clearance and post-decommissioning surveys. *(See Section 13 for further details).*

Stage 5

5.17 The final stage will require the Operator to implement arrangements for monitoring, maintenance and management of the decommissioned site and any remains of installations or pipelines that may exist. The scope and duration of the monitoring requirements will be agreed between the Operator and DECC in consultation with other Government Departments and details will be included in the decommissioning programme. *(See also Sections 14 to 16 of this guidance).*

Deferral and Phased Decommissioning

5.18 The Government aims to ensure the orderly decommissioning of offshore infrastructure in a timely and efficient manner, in line with the UK's international obligations and domestic legislation. DECC's expectation is that the removal of redundant installations, including subsea equipment, will be carried out as soon as reasonably practicable. At the same time we recognise that disused facilities including pipelines may represent important UKCS infrastructure and provide the means for the further development of hydrocarbon reserves, the storage of carbon dioxide or hydrocarbon gas. Where a specific opportunity has been identified deferral of decommissioning can be considered. The timing of decommissioning will also be influenced by market factors and vessel availability and there may be benefits from coordinating offshore work with other projects being undertaken in a similar timescale. This may involve agreeing that decommissioning work can be conducted during a window of opportunity, possibly spread across two or three seasons. In general, though, in view of the UK's obligations under OSPAR, DECC expects the removal of disused installations not to be delayed unless a robust case demonstrates there is a specific reuse opportunity or other justifiable reasons for deferring decommissioning.

5.19 If it is proposed that final decommissioning of an installation be deferred to a later date, DECC should be consulted well in advance and a sustainable case will need to be made. In most instances it should be possible to agree the deferral by an exchange of correspondence. If it is agreed that decommissioning may be delayed until a more appropriate time, DECC will issue a formal letter setting out the conditions upon which it is prepared to defer, until a specified date, the issue of a direction to submit a decommissioning programme.

5.20 However, in most cases it is expected that a decommissioning programme will be required at the outset, particularly if the proposal relates to the phased decommissioning of an installation or of a number of installations in a field which may involve the removal of topsides and other equipment in advance of the jacket. Such phasing may be appropriate in order to take advantage of possible savings through synergy and advances in new technology *(see Section17).* In these circumstances a programme would need to address the overall strategy for decommissioning the installation or installations, although it may be accepted that an Operator should seek agreement initially for the first activity only, e.g. removal of topsides.

5.21 Amongst the factors to be taken into account in considering the case for deferral or phasing and the extent of any prior works will be the condition of the installation, the presence of any hazards including potentially polluting substances and the need for accurate information about the nature and location of any such substances. DECC and HSE will wish to be satisfied that the integrity of the installation will be maintained or that any deterioration will not be such as to present unacceptable risks before or compromise the execution of decommissioning operations.

5.22 The Operator will need to make arrangements to ensure installations which are to be left in place are suitably marked and lit (*see Section 15*).

5.23 In the case of pipelines, DECC should be consulted in the same way as for installations *(see Section 10)*.

Median Line Facilities

5.24 Treaties relating to median line fields contain provisions requiring consultation between the relevant Governments on decommissioning proposals. DECC will take the lead in these discussions and will consult the Operator. If facilities are located on both sides of the median line it is likely that decommissioning proposals will be developed through joint discussions with the relevant Governments, leading to the submission of a single programme for approval by both Governments under their respective legislative regimes.

Role of Other Government Departments

5.25 As already indicated, consultation with Government Departments and the Devolved Administrations at an early stage in the decommissioning process will be essential. DECC will act as the focal point for discussions with operators but other Government Departments, Devolved Administrations and Agencies will be fully involved in the process and will represent their own particular interests as appropriate at these discussions. As part of this process it may be necessary in some cases for operators to enter into a separate dialogue with other Departments if specific matters relating to their areas of responsibility arise. The outcome of any separate discussions will be fed back into the overall assessment of the decommissioning proposals.

5.26 It will also be the Operator's responsibility to obtain as appropriate, or ensure the existence of, any necessary consents or authorisations arising from legislation administered by other parts of DECC, other Government Departments, Devolved Administrations or Agencies. Statutory consultation may be an essential part of the authorisation processes and applications should be made in good time. *Further details of the role and responsibilities of other Departments are set out in Annex E; see also Section 6 of this guidance and Annex D.*

6. DECOMMISSIONING PROGRAMMES

Content *(see also Annex C)*

6.1 In most cases the general rule under OSPAR Decision 98/3 will apply and the decommissioning programme will provide for full removal for re-use, recycling or final disposal of the installation on land. In preparing the decommissioning programme in these cases there will be no need for a detailed comparative assessment of the options nor will there be a need for the Government to consult the OSPAR Contracting Parties. It will, however, be important to make the draft programme available for public comment and to include in the programme a statement indicating how the principles of the waste hierarchy will be met and to show the extent to which the installation, including the topsides and the materials contained within the installation, will be re-used, recycled or disposed of on land.

6.2 The waste hierarchy is a conceptual framework which ranks the options for dealing with waste in terms of their sustainability, beginning with reducing the generation of waste. Failing that, re-use either for the same or a different purpose should be considered ahead of recovering value from the waste through recycling. Only if none of these offers an acceptable solution should disposal be considered. The Government reiterates its support for the waste hierarchy in the national waste strategies for Scotland, England and Wales, published by the Scottish Environment Protection Agency (http://www.sepa.org.uk/) and the Department of Environment, Food and Rural Affairs (http://www.defra.gov.uk/).

6.3 The OSPAR Decision recognises that, in line with the waste hierarchy, the re-use of an installation is first in the order of preferred decommissioning options. DECC is keen to encourage the re-use of facilities wherever this is practical and will expect the decommissioning programme to demonstrate that the potential for re-use has been examined fully.

6.4 It will be essential to support the chosen decommissioning option with an Environmental Impact Assessment. This should form part of the decommissioning programme and should assess the impact of the project on the environment and climate change, which is of increasing importance in the decision making process. This should include information on the energy balance and emissions of the options considered. It should also include the impacts of any explosives likely to be deployed subsea during decommissioning activity. It should also take account of requirements under the EU Habitats Directive. *(See Annex C, Item 10).*

6.5 In the more complex cases relating to concrete installations and to steel installations with a jacket weight greater than 10,000 tonnes a full assessment of the options in accordance with Annex 2 to OSPAR Decision 98/3 must be undertaken by the Operator so that DECC may judge whether there is a case for seeking a derogation from the general rule of the Decision. The assessment will include the practical availability and potential impacts of alternative options in order to allow an authoritative comparative evaluation to be carried out. The assessment will form part of the decommissioning programme. *The approach to*

this assessment and an indication of the criteria that may be applied is set out in Annex A to these guidance notes.

6.6 A decommissioning programme should identify all items of equipment and materials that have been installed (e.g. installations, subsea equipment, wells, pipelines) or have accumulated (e.g. drill cuttings) at the site. In addition, with the exception of items left downhole, the programme should clearly specify any equipment or remains to be decommissioned in place.

6.7 A programme may deal with the decommissioning of all of the facilities located on a field or part of the facilities including a single installation or pipeline. The precise content of a programme may vary according to the circumstances. However, the following sections are likely to be necessary in most cases. *Details of the information to be provided under each section are set out in Annex C.*

1. Introduction
2. Executive Summary
3. Background information
4. Description of Items to be decommissioned
5. Inventory of materials
6. Removal and disposal options
7. Selected removal and disposal option
8. Wells
9. Drill Cuttings
10. Environmental Impact Assessment
11. Interested party consultations
12. Costs
13. Schedule
14. Project management and verification
15. Debris clearance
16. Pre- and Post-decommissioning monitoring and maintenance
17. Supporting studies

6.8 If the above format is not appropriate in any particular case a modified version should be agreed in discussion with DECC.

6.9 Where particular items of equipment or facilities on a field are to be decommissioned together but are the subject of different sets of section 29 notices (i.e. the groups of notice holders for the facilities are not all composed of the same companies), it is important that it is possible to distinguish clearly from the decommissioning programme with whom the decommissioning obligations rest and what those obligations are. The effect of the Petroleum Act 1998 is to require there to be a decommissioning programme in respect of each set of equipment which is the subject of a section 29 notice or series of related section 29 notices. This means that, although it may be possible to present different programmes within a single document, it must be done in such a way as to allow the different programmes to be identified in order to isolate the liabilities of the different groups of notice holders.

6.10 Decommissioning proposals for pipelines should be prepared in a separate programme although, as indicated above, this may be presented within the overall decommissioning document. *Section 10 outlines the general approach to pipeline decommissioning and Annex C explains how to structure combined decommissioning documents*.

6.11 Draft Decommissioning Programmes must include a statement about costs. However, we realise that accurate cost data and confirmation of the final decommissioning option may be dependent on the outcome of a commercial tendering process. Operators should discuss any sensitivities with DECC.

Submission

6.12 At a mutually agreed time, following preliminary discussions, the Operator should submit to DECC 26 copies of a consultation draft of the decommissioning programme. Exact requirements will be discussed with the Operator before submission. Copies of the draft programme will be distributed by DECC to other Government Departments and Agencies. Submission in CD ROM form is the preferred method, although some paper copies will also be required. Six copies will be required when the holders of section 29 notices are directed formally to submit the decommissioning programme.

6.13 The documents should be marked for the attention of the Head of the Offshore Decommissioning Unit and addressed to:

The Department of Energy and Climate Change
Atholl House
86–88 Guild Street
ABERDEEN AB11 6AR

6.14 On receipt of a draft decommissioning programme the Offshore Decommissioning Unit will circulate it for consideration by others with an interest within DECC and to other Government Departments. The latter will comprise: The Scottish Government (both the Environmental Quality Directorate and Marine Scotland); the Department of Environment, Food and Rural Affairs; the Ministry of Defence including the UK Hydrographic Office and HM Revenue & Customs. The Health and Safety Executive; the Crown Estate and the Joint Nature Conservation Committee (or the appropriate Conservation Committee) will also receive a copy of all programmes. The Scottish Environment Protection Agency will receive a copy if the facilities are in waters adjacent to Scotland; the Environment Agency if in waters adjacent to England or Wales and the Department of the Environment for Northern Ireland if in waters adjacent to Northern Ireland. *The roles of these other Government Departments and Agencies are set out in Annex E.* Draft programmes are also circulated to Historic Scotland and the Royal Commission on the Ancient and Historical Monuments of Scotland (RCAHMS). *Section 19 explains the role of these bodies.*

6.15 At the same time DECC will agree with the Operator a timetable for considering the draft programme and submitting it for approval by the Secretary

of State. DECC will use its best endeavours to complete the consideration of the draft decommissioning programme within 10 weeks.

6.16 In that period DECC's Offshore Decommissioning Unit will co-ordinate all Government comments on the draft and submit a written response to the Operator. Further meetings may be necessary at this stage to discuss whether additional information and amendments to the draft programme may be necessary.

6.17 At the same time as submitting the draft decommissioning programme to DECC the Operator should also release it to the statutory consultees and announce the proposals in the Press and on the Internet.

6.18 The outcome of the consultation process should be reviewed with DECC and details included in the final version of the programme submitted for the Secretary of State's approval.

6.19 Where appropriate, consideration of the draft decommissioning programme will run in parallel with:

- consideration by DECC Licensing and Consent Unit Field Teams of any Cessation of Production (COP) Document (the procedures for submitting an application for COP are set out in DECC's 'Guidance Notes on Procedures for Regulating Offshore Oil and Gas Field Developments' which can be viewed on DECC's Oil & Gas Website at https://www.og.decc.gov.uk/regulation/guidance/index.htm

- consideration by the HSE of the Dismantlement Safety Case

- consideration of any environmental permits or consents, and

- any onshore disposal consents or licences which may be necessary, including any transfrontier shipment of waste issues.

6.20 It is important that sufficient time is allowed for the proper consideration of the proposals in a decommissioning programme. In the majority of cases only one draft of the decommissioning programme will be necessary. However, in those cases involving installations that are candidates for derogation under OSPAR Decision 98/3 it is likely that more than one draft will be required.

Derogation cases

6.21 For derogation cases, DECC will still aim to comment on the consultation draft of the decommissioning programme within 10 weeks. However, given the complexities of a derogation case this process may take longer to complete. At the same time as submitting the draft to DECC the Operator should commence statutory consultations and announce the proposals in the Press and on the Internet. The outcome of these consultations should be reviewed with DECC and details included in a post consultation draft of the decommissioning

programme along with any comments received from DECC in response to the Government consideration of the draft.

6.22 Having received the updated draft of the decommissioning programme DECC should be satisfied that there are sufficient grounds to initiate consultations with other OSPAR Contracting Parties on the intention to issue a permit allowing derogation from the terms of OSPAR Decision 98/3 *(see paragraph 6.27)*.

6.23 When submitting the decommissioning programme for approval, the outcome of the OSPAR process should be reflected in the document.

Consultations

6.24 At the point at which the draft decommissioning programme is submitted to DECC, the Operator should commence statutory consultations as required under section 29(3) of the Petroleum Act 1998. These consultations will be with the representatives of those parties who may be affected by the decommissioning proposals, such as the fishing industry. Details of the statutory consultees will be specified in a letter to all companies in receipt of a notice under section 29 of the Act. *A list of the parties normally included is at Annex H.* The Statutory Consultees should normally be given 30 days in which to comment.

6.25 The Operator will also be asked to announce its proposals by placing a public notice in appropriate national and local newspapers and journals and to place details on the Internet. This notice should indicate where copies of the draft decommissioning programme can be viewed and to whom representations should be submitted. A standard form of notice including appropriate publications can be provided by DECC. Hard copies of the draft programme should be made available for inspection at the Operator's offices and a copy can be placed on the Internet. At the same time DECC will indicate on its website that the programme has been issued for consultation.

6.26 The results of consultations should be reported in the decommissioning programme when it is submitted for approval. This can be best achieved by appending to the programme the correspondence with interested parties and by indicating the extent to which their views have been taken into account.

6.27 In the more complex cases which require assessment in accordance with the procedures set out in OSPAR Decision 98/3, operators will need to develop and manage a wide-ranging public consultation process. The form and timing of this process should be discussed with DECC. As a guide, such a process may take up to 12 months and should commence at an early stage. Oil & Gas UK has developed Guidelines on Stakeholder Engagement for Decommissioning Activities. These can be viewed at http://www.oilandgasuk.co.uk/

6.28 If these Stakeholder consultations lead to a decision to seek a derogation under the OSPAR Decision it will be necessary for DECC to consult the other

OSPAR Contracting Parties. Annex 3 to the Decision sets out the required consultation process that may take up to 8 months to complete.

6.29 DECC will be responsible for submitting the case for derogation to the OSPAR Secretariat but the Operator will be asked to prepare a document that supports this case. The contents of this derogation document should be discussed with DECC. It should be based on the draft decommissioning programme but should only contain those factors that are relevant to the derogation case. Preparation of the derogation document would normally commence at the time of submission of the post statutory consultation draft of the decommissioning programme. Sufficient copies will be required for distribution to all of the OSPAR Contracting Parties.

Approval

6.30 At the appropriate time, normally when the draft decommissioning programme has been finalised, the Secretary of State will formally direct, in writing, the holders of section 29 notices, in respect of the installations and/or pipelines, to submit a decommissioning programme for his approval. In response to the direction, the Operator, on behalf of the notice holders, should submit six copies of the decommissioning programme based on the agreed draft. The decommissioning programme should include a letter from each current equity holder with a section 29 notice signifying that it is being submitted by the Operator on their behalf. A letter of support will not be required from a non equity holder who has sold their interest but retains a section 29 notice. Each of the notice holders will be informed by written notice when the Secretary of State has approved the programme. If the approval is to be subject to specific conditions, the notice holders will be given the opportunity to make representations. A link to the approved programme will be included on DECC's website.

Reporting Progress

6.31 There should be a commitment within the programme for the Operator to keep DECC informed of progress during the decommissioning activities and submit a Close-out report within four months of the completion of offshore work, including debris clearance and post-decommissioning surveys. The report should outline how the decommissioning programme was carried out. Details of the information to be provided in the report are set out in *Section 13.*

6.32 The progress of a decommissioning programme from submission of the draft through to approval will be indicated on DECC's Oil & Gas website http://www.og.decc.gov.uk/upstream/decommissioning/programmes/index.htm.

Changes to Approved Programmes

6.33 When a decommissioning programme has been approved it is the duty of each of the persons who submitted it to secure that it is carried out and that any conditions to which the approval is subject are complied with. Those who submitted the programme may, if they wish, propose alterations to it. If changes

are contemplated, the Operator, on behalf of the persons who submitted the programme, should discuss them with DECC. Section 34 of the 1998 Act sets out the provisions that apply to the revision of an approved decommissioning programme.

7. THE IMPACT OF OSPAR DECISION 98/3

General

7.1 The purpose of this chapter is to provide guidance on the decommissioning requirements which apply, in accordance with the requirements of the OSPAR Decision 98/3, to the various types of installation located on the UKCS.

7.2 Under the OSPAR Decision, which has been accepted by the UK Government, the disposal at sea and the leaving wholly or partly in place of disused offshore installations is prohibited. There is a presumption in favour of re-use, recycling or final disposal on land.

7.3 The Decision recognises that there may be difficulty in removing the 'footings' of large steel jackets weighing more than 10,000 tonnes and in removing concrete installations. As a result there are exceptions from the general rule for these categories of installation. However, it should be noted that any steel installation emplaced after 9 February 1999, the date on which the Decision entered into force, must be completely removed for re-use or recycling or final disposal on land.

7.4 The following table indicates the options which may be considered for various categories of offshore installations located on the UKCS:

Installation (excluding topsides)	Weight (tonnes)	Complete Removal to land	Partial Removal to land	Leave wholly in place	Re-use	Disposal at Sea
Fixed Steel	<10,000	Yes	No	No	Yes (3)	No
Fixed Steel	>10,000	Yes	Yes (1)(2)	No	Yes(3)	No
Concrete - gravity	Any	Yes	Yes(2)	Yes	Yes	Yes(4)
Floating	Any	Yes	No	No	Yes	No
Subsea	Any	Yes	No	No	Yes	No

Notes:

(1) Only the 'footings' or part of the 'footings' may be left in place.

(2) Minimum water clearance of 55 metres required above any partially removed installation which does not project above the surface of the sea.

(3) The placement of materials on the seabed for a purpose other than that for which it was originally intended is covered by the OSPAR Guidelines on Artificial Reefs in relation to Living Marine Resources of June 1999 (*OSPAR Reference: Agreement 1999-13. Available from the OSPAR website at* www.ospar.org).

(4) Although the disposal of the substructure of a concrete installation at a deep-water site is an option this must be considered against

the UK Government announcements at the time of the Decision when Ministers stated that there would be no toppling and no local or remote dumping of offshore installations.

7.5 In addition, the OSPAR Decision recognises that in very exceptional and unforeseen circumstances resulting from structural damage or deterioration or equivalent difficulties there may be a case for any offshore installation to be dumped or left wholly or partly in place.

7.6 The following provides further guidance:

Topsides

7.7 The topsides of all installations must be returned to shore for re-use or recycling or final disposal on land. Under the Decision topsides are defined as those parts of an entire offshore installation which are not part of the substructure and includes modular support frames and decks where their removal would not endanger the structural stability of the substructure.

Steel Installations weighing less than 10,000 tonnes (excluding topsides)

7.8 All steel installations weighing less than 10,000 tonnes must be completely removed for re-use or recycling or final disposal on land. The Decision defines a steel installation as being a disused offshore installation which is constructed wholly or mainly of steel.

7.9 Any piles should be severed below the natural seabed level at such a depth to ensure that any remains are unlikely to become uncovered. The depth will in the main depend upon the prevailing seabed conditions and currents.

Steel Installations weighing more than 10,000 tonnes (excluding topsides)

7.10 There is a presumption that steel installations weighing more than 10,000 tonnes should be totally removed and this is the starting point for the consideration of any decommissioning proposals. However, it is possible to consider whether it is appropriate for the 'footings' or part of the 'footings' of the installation to be left in place. The upper section of the jacket above the 'footings' or any removed part of the 'footings' must either be re-used, recycled or disposed of on land. Any removed parts may not be disposed of at sea.

7.11 The Decision defines the 'footings' as those parts of a steel installation which are below the highest point of the piles which connect the installation to the sea bed or, in the case of an installation constructed without piling, form the foundation of the installation and contain amounts of cement grouting similar to those found in piled installations. The definition also includes those parts of a steel installation which are so closely connected to the 'footings' as to present major engineering problems in severing them. In some situations this will allow subsea templates which are located within the area of the ‘footings’ and made inaccessible by the ‘footings’ to be included in this definition.

7.12 If the owners of the installation wish the Government to consider seeking a derogation (paragraph 3 of the Decision) from the general rule of total removal, it will be necessary for the Operator of the installation to demonstrate that there are significant reasons why leaving the 'footings' or part of the 'footings' in place is preferable to returning them to shore for re-use or recycling or final disposal on land. To achieve this, an assessment must be carried out by the Operator in accordance with Annex 2 to the Decision. Such an assessment will not need to cover options which are not available in this case (e.g. deep-sea disposal or toppling). This assessment may be judged against the criteria and approach set out in Annex A to this guidance. If the Government is satisfied that a case has been made it will undertake consultations with the other OSPAR Contracting Parties through the OSPAR Secretariat in accordance with Annex 3 to the Decision.

Gravity Based Concrete Installations

7.13 Decision 98/3 recognises that the decommissioning of concrete installations is likely to present particular problems. For the purposes of the Decision a concrete installation is defined as being a disused offshore installation constructed wholly or mainly of concrete.

7.14 As with all other installations the topsides of concrete installations must be returned to shore for re-use, recycling or disposal. However, it is possible to consider whether the remainder of the installation, or part of it, should remain in place or be disposed of at a deep-water licensed site. If the owners of a concrete installation wish the Government to consider a derogation from the general rule of total removal to land, the Operator must undertake an assessment in accordance with Annex 2 to the Decision. The assessment must show that there are significant reasons why sea disposal or leaving the installation in place is preferable to re-use or recycling or final disposal on land. This assessment may be judged against the criteria and approach set out in Annex A to this guidance. If the Government is satisfied that a case has been made it will carry out consultation with the other OSPAR Contracting Parties in accordance with Annex 3 to the Decision.

Hybrid Installations

7.15 Since the introduction of Decision 98/3 a number of new development proposals have considered the use of hybrid installations, combining both concrete and steel in their construction. A typical hybrid installation may have a concrete gravity base storage tank with a fixed steel structure located above.

7.16 For the purposes of the OSPAR Decision and the requirements of the Petroleum Act 1998 such installations will be classified as being either steel or concrete on the basis of the definitions set out in the Decision, i.e. that it is either, constructed wholly or mainly of steel or it is constructed wholly or mainly of concrete. This is not simply a matter of weight and account will be taken of the purposes for which the different parts of the structure will be used.

7.17 If such an installation is classified as concrete then account will have to be taken of the Ministerial 'Sintra' statement which accompanied the Decision and made clear that new concrete installations would be used only when it is strictly necessary for safety or technical reasons. In such circumstances a case justifying the use of concrete would have to be made as part of the Field Development Plan (FDP) approval process and would need to demonstrate that the installation can be removed for re-use, recycling or final disposal on land at the time of decommissioning. This is in accordance with the IMO requirement that any installation emplaced on or after 1 January 1998 must be designed and constructed so that entire removal would be feasible *(see Section 8).*

Floating Installations

7.18 Floating installations will include Floating Production Facilities (FPFs) or Floating Production Systems (FPSs), Floating Production, Storage and Off-take vessels (FPSOs), Floating Storage Units (FSUs), and Single Buoy Mooring facilities (SBMs). At the end of field life such installations will be floated off location and re-use elsewhere as a production or storage facility is likely to be a high priority. In those cases where re-use does not prove possible it will be necessary to return the facility to shore for storage or dismantling in line with the hierarchy of waste disposal options.

7.19 It is recognised that there may be a requirement to remove floating production facilities from a field in advance of the approval of a decommissioning programme. In these circumstances removal of the facility can be agreed through an exchange of correspondence between the Operator and DECC. Details of the removal would be included retrospectively in the decommissioning programme. Further guidance can be provided by DECC.

7.20 Most floating installations will have associated sub-sea equipment. The approach to decommissioning sub-sea installations is dealt with in the following paragraphs.

Sub-sea Installations

7.21 Sub-sea installations are not separately identified in the Decision but fall within the definition of a steel installation or a concrete installation. Sub-sea installations include drilling templates, production manifolds, well heads, protective structures, anchor blocks and anchor points, anchor chains, risers and riser bases. Subject to paragraph 7.22 below, such installations must be completely removed for re-use or recycling or final disposal on land. Any piles should be cut below natural seabed level at such a depth to ensure that any remains are unlikely to become uncovered. The depth will in the main depend upon the prevailing seabed conditions and currents. However, any application to leave in place a sub-sea installation because of the difficulty of removing it would need to be made in terms of satisfying the requirements of paragraph 3(c) (exceptional and unforeseen circumstances) of the Decision.

7.22 The exception to the general rule above relates to any part of an offshore installation which is located below the surface of the sea-bed or any concrete

anchor-base associated with a floating installation which does not, and is not likely to, result in interference with other legitimate uses of the sea. These are not included in the definition of a disused steel or concrete installation in the Decision and as such may be left in place. However, any concrete anchor-base which results, or is likely to result, in interference with other legitimate uses of the sea can remain in place as a derogation from the main rule only if an assessment under Annex 2 to the Decision, and consultation in accordance with Annex 3, show that to be preferable to re-use or recycling or final disposal on land.

Exceptional Circumstances

7.23 In exceptional and unforeseen circumstances any disused offshore installation may be disposed of at sea or left wholly or partly in place as a derogation from the main rule if it can be demonstrated that, due to structural damage or deterioration, or some other cause presenting equivalent difficulties, there are significant reasons why such disposal is preferable to re-use or recycling or final disposal on land. An assessment in accordance with Annex 2 to the Decision would have to be carried out along with consultation under Annex 3. This derogation is likely to apply only in very exceptional cases where for significant environmental, technical or safety reasons an installation, or part of it, cannot be removed. Again, the assessment could be judged against the criteria and approach set out in Annex A to this guidance.

8. IMO GUIDELINES AND STANDARDS FOR THE REMOVAL OF OFFSHORE INSTALLATIONS AND STRUCTURES

8.1 The International Maritime Organisation Guidelines and Standards for the Removal of Offshore Installations and Structures on the Continental Shelf and in the Exclusive Economic Zone, adopted by IMO Assembly on 19 October 1989, (Resolution A.672 (16)), set out the minimum global standards to be applied to the removal of offshore installations and structures.

8.2 The Guidelines and Standards, which were designed essentially to ensure the safety of navigation, make clear that they are not intended to preclude a coastal state from imposing more stringent removal requirements for existing or future installations or structures on its continental shelf or in its exclusive economic zone.

8.3 The UK Government's acceptance of OSPAR Decision 98/3 means that the UK will apply the provisions of that instrument when considering the decommissioning of offshore installations rather than the standards and guidelines laid down by the IMO. However, certain aspects of the IMO Guidelines and Standards will still be relevant:

- Any disused installation or structure, or part thereof, which projects above the surface of the sea should be adequately maintained.
- An unobstructed water column of at least 55 metres must be provided above the remains of any partially removed installation to ensure safety of navigation.
- The position, surveyed depth and dimensions of any installation not entirely removed should be indicated on nautical charts and any remains, where necessary, properly marked with aids to navigation.
- The person responsible for maintaining any aids to navigation and for monitoring the condition of any remaining material should be identified.
- The liability for meeting any claims for damages which may arise in the future should be clear.
- On or after 1 January 1998, no installation or structure should be placed on any continental shelf or in any exclusive economic zone unless the design and construction of the installation or structure is such that entire removal upon abandonment or permanent disuse would be feasible.

8.4 Most of these requirements are reflected in Annex 4 to the OSPAR Decision which sets out the terms and conditions which must be specified in any permit issued by a Contracting Party for disposal at sea.

8.5 Our requirements on the marking of any remains of an installation are set out in *Section 15 of this guidance.*

9. TREATING, KEEPING AND DISPOSING OF WASTE

9.1 The Environment Agency (in England and Wales) and the Scottish Environment Protection Agency (in Scotland) are responsible for administering and enforcing the waste management controls. Anyone who deposits, recovers or disposes of waste must do so in compliance with the conditions of a waste management licence, or within the terms of an exemption from licensing, and in a way which does not cause pollution of the environment or harm to human health.

9.2 Movements of waste from the UKCS to other Member States and Non-Member States are deemed to be a transboundary movement and therefore subject to transfrontier regulations. Unless wastes are exempt from the scope of Council Regulation No 1013/2006/EC, the "Waste Shipment Regulation" (WSR) and the UK Management Plan for the Export and Import of Wastes, any movements for disposal would be prohibited. While wastes generated by the normal operation of oil platforms may be exempt from the scope of the WSR, decommissioned installations are not. Any transboundary shipment for recovery operations, which is not exempt from the scope of WSR, could be classified as a shipment of unlisted waste. Unlisted waste shipments require prior written notification to, and the written consent of, the competent authorities involved in the shipment. Given the highly specialised nature of waste shipment controls, operators planning to carry out any decommissioning or an associated activity involving waste generated on offshore platforms should contact the relevant Agency. Council Directive 2006/117/Euratum, transposed by the Transfrontier Shipment of Radioactive Waste and Spent Fuel Regulations 2008, excludes NORM wastes and the shipment of disused sources to authorised storage facilities. Therefore transfer of such material does not require authorisation under transfrontier shipment of radioactive waste. Further details are available in the international shipments of waste guidance. These can be viewed at: http://www.environment-agency.gov.uk/business/sectors/32447.aspx *(Details of the waste management licensing system, and other relevant legislation, are contained in Annex D).*

10. PIPELINE DECOMMISSIONING

General Approach

10.1. The Petroleum Act 1998 provides a framework for the orderly decommissioning of both offshore installations and offshore pipelines. The Pipeline Safety Regulations 1996, administered by the HSE, provide requirements for the safe decommissioning of pipelines. This chapter provides guidance on the approach to the decommissioning of pipelines on the UKCS. The provisions of OSPAR Decision 98/3 do not apply to pipelines. There are no international guidelines on the decommissioning of disused pipelines. Decommissioning proposals for pipelines should be contained within a separate programme from that for installations. However, programmes for both pipelines and installations in the same field may be submitted in one document.

10.2 The following approach will be taken in considering the decommissioning of pipelines on the UKCS:

- decisions will be taken in the light of individual circumstances;
- the potential for reuse of the pipeline in connection with further hydrocarbon developments should be considered before decommissioning together with other existing projects (such as hydrocarbon storage and carbon capture and storage). If reuse is considered viable, suitable and sufficient maintenance of the pipeline must be detailed.
- all feasible decommissioning options should be considered and a comparative assessment made (*the factors to be taken into account are included in Annex C*);
- any removal or partial removal of a pipeline should be performed in such a way as to cause no significant adverse effects upon the marine environment;
- any decision that a pipeline may be left in place should have regard to the likely deterioration of the material involved and its present and possible future effect on the marine environment.
- account should be taken of other uses of the sea.

10.3 Where it is proposed that a pipeline should be decommissioned in place, either wholly or in part, then the decommissioning programme should be supported by a suitable study which addresses the degree of past and likely future burial/exposure of the pipeline and any potential effect on the marine environment and other uses of the sea. The study should include the survey history of the line with appropriate data to confirm the current status of the line including the extent and depth of burial, trenching, spanning and exposure.

10.4 Determination of any potential effect on the marine environment at the time of decommissioning should be based upon scientific evidence. The factors to be taken into account should include the effect on water quality and geological and hydrographic characteristics; the presence of endangered, threatened or protected species; existing habitat types; local fishery resources; and the potential for pollution or contamination of the site by residual products from, or deterioration of, the pipeline. In order to consider the potential environmental impact it is necessary to evidence the contents of the line and outline the cleaning operations that will be undertaken. In addition to cleaning hydrocarbons reasonable endeavours to remove wax and other contaminants, particularly where a line is to be decommissioned in place, will be expected. Experience to date highlights the advantage of commencing cleaning operations early in the decommissioning process. Guidance on cleaning topsides and pipelines prior to decommissioning has been developed through the Pilot Brownfields Initiative. This is available from the Oil & Gas UK website:

http://www.oilandgasuk.co.uk/cmsfiles/modules/publications/pdfs/OP057.pdf

10.5 Because of the widely different circumstances of each case, it is not possible to predict with any certainty what may be approved in respect of any class of pipeline. Each will be considered on its merits and in the light of a comparative assessment of the alternative options. This policy also applies to pipeline bundles which are already in place on the seabed. The Department would however expect that any new pipeline bundles which are currently under construction should be designed for future removal.

Leaving in place

10.6 As a general guide the following pipelines (inclusive of any "piggyback" lines and umbilicals that cannot easily be separated) may be candidates for in-situ decommissioning:

- those which are adequately buried or trenched and which are not subject to development of spans and are expected to remain so;
- those which were not buried or trenched at installation but which are expected to self bury over a sufficient length within a reasonable time and remain so buried;
- those where burial or trenching of the exposed sections is undertaken to a sufficient depth and it is expected to be permanent;
- those which are not trenched or buried but which nevertheless are candidates for leaving in place if the comparative assessment shows that to be the preferred option (e.g. trunk lines);

- those where exceptional and unforeseen circumstances due to structural damage or deterioration or other cause means they cannot be recovered safely and efficiently.

10.7 Judgements regarding the degree of burial or trenching necessary will be undertaken on a case by case basis in the light of individual circumstances. We will wish to be satisfied that the pipeline is sufficiently buried or trenched below seabed level to avoid obstruction to other uses of the sea. Decisions on the appropriate depth of burial or trenching will take account of seabed conditions and other relevant factors but it is expected that burial or trenching to a minimum depth of 0.6 metres above the top of the pipeline will be necessary in most cases.

Removal

10.8 Small diameter pipelines, including flexible flowlines and umbilicals which are neither trenched nor buried should normally be entirely removed.

10.9 Any mattresses or grout bags which have been installed to protect pipelines during their operational life should be removed for disposal onshore. If the condition of the mattresses or grout bags is such that they cannot be removed safely or efficiently then any proposal to leave them in place must be supported by an appropriate comparative assessment of the options. The Department would however be willing to consider a proposal to leave any mattresses or grout bags in place if they are under the pipeline and it can be demonstrated that this would not cause a snagging protrusion above the pipeline.

10.10 In the case of rock-dump that has been used to protect a pipeline it is recognised that removal is unlikely to be practicable. It is assumed therefore that rock-dump will remain in place, unless there are special circumstances that would warrant consideration of removal. If the rock-dump is associated with a pipeline that is being left in place then it would be expected that the rock-dump would remain undisturbed. If, however, it is associated with a pipeline that is being removed then minimum disturbance of the rock-dump to allow safe removal of the pipeline and the elimination of any seabed obstruction that may result from the presence of the rock, would be expected.

Monitoring

10.11 Pipelines decommissioned in place will be subject to a suitable monitoring programme agreed with DECC in consultation with other Government Departments. Details should be specified in the decommissioning programme. The form and duration of the monitoring programme will depend upon the prevailing circumstances and, if necessary, be adapted with time. However a typical monitoring regime should commence with a post-decommissioning survey at the completion of decommissioning work. Following all surveys, inspection reports should be submitted to DECC's Offshore Decommissioning Unit. If these show the existence of potential hazards to other users of the sea

then proposals for appropriate maintenance or remedial work should also be included

10.12 Following a DECC commissioned study to determine the appropriate requirements for long term monitoring of these lines the Department has concluded that a risk based monitoring scheme based on pipeline stability and potential impact remains appropriate for lines which are decommissioned in place. Each pipeline must be judged on its individual burial history and condition when establishing a monitoring scheme. Inspections of pipelines should then be undertaken for a fixed period depending on the risk criteria after which time they may move to a reactive basis i.e. surveys only if concerns arise about the pipeline. As part of this process DECC will be closely involved with the Operator during the monitoring phase and will review the findings of reports in consultation with other Government Departments and fishermen representatives before deciding whether a reactive basis is appropriate.

Deferral

10.13 In those cases where a pipeline reaches the end of its operational life before other facilities in the field, the Operator should notify DECC's Offshore Decommissioning Unit that the pipeline is no longer in use. DECC will send the Operator a Disused Pipeline Notification form requesting details on the status of the pipeline that has been taken out of use. The Disused Pipeline Notification has been drawn up in consultation with the Scottish Government - Marine Scotland, the Department of Environment, Food and Rural Affairs, the Health and Safety Executive and Oil & Gas UK. Upon receipt of this information DECC in discussion with other Government Departments, including the SG-MS, DEFRA and HSE, will consider whether a decommissioning programme for the pipeline is appropriate at this stage or whether its final decommissioning can be dealt with at end of field life along with the other facilities in the field.

10.14 Amongst the factors to be taken into account in deciding the approach to a redundant pipeline in these circumstances will be the length, diameter and construction of the pipeline; its location and the extent to which the pipeline is trenched or buried; and the stability and integrity of the pipeline including the presence of any spans in excess of 0.8 metres in height and 10 metres in length and/or which are likely to present a hazard to fishing activity.

10.15 If it is agreed that final decommissioning may be delayed until a more appropriate time, DECC will issue a letter setting out the conditions upon which it is prepared to defer formal decommissioning. This may include the requirement to carry out remedial work on the pipeline. DECC will wish to be satisfied that leaving the pipeline in place until end of field life will not prejudice any final decommissioning solution – including complete removal - and that the pipeline will be subject to an appropriate surveying and maintenance regime. Following future surveys DECC will write to the operator to confirm the status of the pipeline.

10.16 In cases where decommissioning is deferred as detailed above, the pipelines concerned are considered to form part of the Interim Pipeline Regime.

*(Further details are available on DECC's Oil & Gas Website*http://www.og.decc.gov.uk/upstream/decommissioning/decom2.htm *).*

Consultation

10.17 The consultation arrangements set out in *Section 6* apply equally to pipeline decommissioning programmes.

Territorial Sea

10.18 Pipelines that cross the UK seabed within the territorial sea (12 nautical miles from the UK coastline) are likely to be subject to a lease granted by The Crown Estate which will include a rental payment based upon the size of the pipeline. Operators may apply to The Crown Estate for termination of the rent upon completion of decommissioning works or suspension of the rent if the pipeline has fallen into temporary disuse.

11. DRILL CUTTINGS

11.1 Many offshore installations located on the UKCS, particularly in the northern sector of the North Sea, have significant volumes of drill cuttings deposited on the seabed beneath them. In some cases the 'footings' of the jacket are embedded within a cuttings pile and any attempt to entirely remove the installation will be impossible without disturbance or removal of the drill cuttings piles.

11.2 In 1998, in response to concerns Oil & Gas UK initiated an industry study of the issues associated with the accumulation of drill cuttings beneath offshore installations. The study was completed and the results presented to OSPAR in February 2002. Further information on the work undertaken and the outcomes is available from the Oil & Gas UK website (www.oilandgasuk.co.uk).

11.3 Following presentation of the study, OSPAR agreed that Contracting Parties should consider with their industries the feasibility of surveying representative cuttings accumulations so as to provide an indication of the environmental impacts of individual piles. As a result, a joint industry initiative involving a sampling cruise of various UKCS fields was undertaken in 2004. The results of this survey, along with an outline management regime reflecting the survey outcomes were presented to OIC 2005 and the UK developed a proposal for OIC 2006 adopted as OSPAR Recommendation 2006/5 *(See Annex I).*

11.4 The Recommendation had effect from 30 June 2006 and introduced a two stage management regime. Stage 1 provided for initial screening of all cuttings piles, to be completed by 30 June 2008 to identify any piles that require further investigation based on the thresholds set out in the Recommendation. Industry's subsequent report assessing UK cuttings piles in line with the Recommendation concluded that they were all below the specified thresholds. These results were submitted as part of DECC's implementation report to OIC 2009 and have informed the UK strategy. There is no need for immediate remediation of UK drill cuttings. However, at the time of decommissioning the associated installations the characteristics of the relevant cuttings piles should be assessed in detail and the need for further action in line with Stage 2 of the Recommendation reviewed, see next paragraph.

11.5 A draft decommissioning programme should record the outcome of Stage 1 screening for any cutting piles present under the installation(s). If the Stage 1 assessment was based on extrapolation of data for the piles, the results should be verified with survey data for the piles in question. Where either threshold in Recommendation 2006/5 is exceeded, Stage 2 will apply and will require a study, including a comparative assessment, to determine the best option for handling the cuttings pile. DECC will agree the time at which Stage 2 should be initiated, taking account of the rate of oil loss, the persistence and the timing of decommissioning of the associated installations *(See Annex C for further details).*

12. ENVIRONMENTAL CONSIDERATIONS

Environmental Impact Assessments

12.1 Although there is currently no statutory requirement to undertake an Environmental Impact Assessment (EIA) at the decommissioning stage, a decommissioning programme will nevertheless need to be supported by an EIA. The Environmental Statement (ES) submitted for the development under the EIA regulations requires the applicant to consider the long-term impacts of the development and these include the impacts arising from decommissioning. However, in the light of the lengthy period of time between project sanction and decommissioning, the requirement for a detailed assessment is deferred until closer to the time of actual decommissioning and is submitted as part of the decommissioning programme. In the case of an OSPAR derogation candidate it will be necessary to address through the EIA the environmental impacts of alternative disposal options as part of the Comparative Assessment. However, in the majority of cases where total removal applies and a Comparative Assessment is not required it will only be necessary for the EIA to address the impacts of the proposed decommissioning activity on the environment. *Further details on the information that should be included in an EIA are set out in Annex C (see also Annex A).*

Environmental Regulations

12.2 During the development, consideration and implementation of the decommissioning programme, operators should discuss the proposals with DECC's Offshore Environment Unit, to determine whether the following regulations are relevant to the proposed works, and to discuss the procedures for obtaining or surrendering any relevant permits. *Separate, detailed guidance can be found on* http://www.og.decc.gov.uk/environment/index.htm

The Offshore Petroleum Activities (Conservation of Habitats) Regulations 2001

12.3 These regulations apply the Habitats Directive and the Wild Birds Directive in relation to offshore oil and gas plans and projects wholly or partly on the UKCS. The regulations apply to decommissioning proposals and in the light of the information provided in the ES, DECC in consultation with the Joint Nature Conservation Committee (JNCC) and/or the Countryside Agencies (Natural England, Countryside Council for Wales and Scottish Natural Heritage), will decide whether the proposals are likely to have a significant effect on the habitats and species covered by the regulations, and whether there is a requirement to undertake an 'Appropriate Assessment'. It should be noted that the regulations do not apply to artificial habitats created by the infrastructure that is the subject of the decommissioning programme, and it will therefore be unnecessary to justify the removal of structures that have been colonised by protected or rare species. However, it is still a requirement to conduct surveys to establish whether such species or habitats are present and to what extent. If their presence is significant an Appropriate Assessment may still be required and it will be necessary to understand what mitigation measures would be appropriate. *(See also paragraph 12.11 and Annex C, paragraph10).*

The Offshore Chemical Regulations 2002

12.4 These regulations implement, OSPAR Decision 2000/2 on a Harmonised Mandatory Control System for the Use and Reduction of the Discharge of Offshore Chemicals. Where it is proposed to use or discharge chemicals during the decommissioning of an offshore installation or pipeline, the Operator will need to apply to DECC for the appropriate permit. The application should be submitted using a PON 15E or, if chemical use and discharge is minimal, using an existing PON 15D to request a variation of the production chemical permit.

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

12.5 These regulations prohibit the discharge of oil into the sea from an offshore installation or pipeline, except under authority of a permit. Operators will be required to make provision for the removal and recycling of oil recovered during the decommissioning, but it will be possible to apply for a permit for the discharge or reinjection of certain types and quantities of oil. Applications should be submitted to DECC, using the standard OPPC application form. Further guidance is available at: http://www.og.decc.gov.uk/environment/opaoppcr.htm

The Offshore Combustion Installations (Prevention and Control of Pollution) Regulations 2001

12.6 These regulations implement the Integrated Pollution Prevention and Control (IPPC) Directive for offshore oil and gas installations. Under the regulations a permit is required from DECC if the aggregated thermal capacity of the combustion equipment on the installation exceeds 50 MW(th). Such permits will have been issued prior to decommissioning and when the aggregated thermal capacity of the relevant plant falls below the 50 MW(th) threshold during the course of the decommissioning operations, the installation will no longer be subject to the controls and the Operator will be required to surrender the permit.

The Greenhouse Gases Emission Trading Scheme (ETS) Regulations 2003

12.7 These regulations implement the EU Emissions Trading Scheme (EUETS). Under the regulations, operators are required to apply to DECC for a permit covering the emission of greenhouse gases (currently only CO_2), if the aggregated thermal capacity of the combustion equipment on the installation exceeds 20 MW(th). Such permits will have been issued prior to decommissioning, and must be surrendered when the aggregated thermal capacity falls below the threshold. The installation will then be deemed "closed", and will drop out of the EU Emissions Trading Scheme. Installations will be able to retain and trade any surplus allowances for the year of "closure", i.e. when they fall below the threshold and drop out of the Scheme, but will not receive any allowances for future years.

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

12.8 Under these regulations operators of offshore oil and gas installations and pipelines are responsible for preparing and submitting an Oil Pollution Emergency Plan (OPEP) to DECC. The expectation is that the OPEP will cover all activities where there is a risk of a hydrocarbon spill, including activities relating to decommissioning. This may be achieved by the incorporation of decommissioning activities into the existing field OPEP or by producing a decommissioning specific OPEP.

Environmental Surveys

12.9 Surveys around an installation to establish an environmental baseline may need to be undertaken before decommissioning if relatively recent survey data does not already exist. In most cases, it is unlikely that a new baseline survey would be required if a relevant survey has been undertaken in the last five years. It should be noted that the scope of existing or proposed baseline surveys should be comparable to the requirements in paragraph 12.16.

12.10 Precise requirements will differ according to individual conditions. Discussions on what may be required in an individual case should be held with DECC's Offshore Decommissioning Unit before an Operator develops the survey strategy.

Lophelia pertusa/Sabellaria

12.11 The coldwater coral, *Lophelia pertusa* and reef forming worm *Sabellaria* are known to exist on or around offshore installations. The coral and *Sabellaria* are species of conservation interest and surveys may be necessary to establish their presence. As with all marine species, if there is a significant growth of coral or an established *Sabellaria* reef the potential impact of the operations on these species should be assessed in the EIA. An Appropriate Assessment may also be conducted. *(See also Annex C, paragraph10).* If the coral is present and the installation upon which it is located is to be returned to shore it will be necessary to discuss with DEFRA the requirements of the Convention on International Trade in Endangered Species. *(See also Annex D).*

Debris clearance

12.12 Upon completion of each decommissioning operation, appropriate surveys should be undertaken to identify and recover any debris located on the seabed which has arisen from the decommissioning operation or from past development and production activity.

12.13 The area to be covered will depend on the circumstances of each case. However, the minimum required will be a radius of 500 metres from the location of an installation.

12.14 Debris surveying and removal may be required up to 100 metres either side of a decommissioned pipeline over its whole length.

12.15 Following the removal of any debris, independent verification of seabed clearance will be required. The advisability of post-decommissioning over-trawling to confirm that the area is clear of debris will be considered on a case-by-case basis and will be dependent upon the extent of any cuttings piles and any other relevant circumstances.

Sampling post-decommissioning

12.16 In addition to debris surveys, a post-decommissioning environmental seabed sampling survey should be undertaken, in particular to monitor levels of hydrocarbons, heavy metals and other contaminants in sediment and biota.

12.17 In each case, operators should develop their survey strategy in consultation with DECC's Offshore Decommissioning Unit who will take specialist advice from DECC colleagues and other Government Departments.

12.18 Details of the survey strategy should be included in the decommissioning programme.

12.19 In most cases a second survey will need to be undertaken some time after the post-decommissioning sampling. Any further surveys will depend upon the results of earlier work and the circumstances of each case.

Reporting

12.20 The results of all surveys should be submitted to DECC's Offshore Decommissioning Unit. These will normally be included in the post-decommissioning Close-out report referred to in Section 13. Verification of seabed clearance will also be necessary and may be provided in the form of a seabed clearance certificate issued by an independent party. A copy of the seabed clearance certificate should also be submitted to the Seabed Data Centre (Offshore Installations) at the United Kingdom Hydrographic Office *(see Section 15 for full address)*.

13. CLOSE OUT REPORTS

13.1 At the conclusion of decommissioning operations the Operator will be required to satisfy DECC that the approved programme has been implemented. This will involve the submission of a Close-out Report within four months of the completion of offshore work, including debris clearance and post-decommissioning surveys. The report should explain major variations from the decommissioning programme and should summarise the following:

- Information on the outcome of the decommissioning programme as a whole. This should outline how the major milestones were achieved. This information should provide confirmation that work has been carried out in accordance with the terms of the programme.

- An explanation of any major variances from the programme including why they occurred and an indication of any permits required as a result. Where appropriate include exact quantities of recovered hydrocarbons, sludges, heavy metals, sacrificial anodes and radioactive material including LSA (Low Specific Activity) scale.

- The results of debris clearance and any monitoring undertaken. Any independent verification (e.g. seabed clearance certificates) should be attached.

- The results of the post-decommissioning environmental sampling survey including any immediate consequences of the decommissioning activity which have been observed. If necessary update the schedule for future environmental monitoring or monitoring of items left in place with reasons for the changes.

- Measures taken to manage the potential risks arising from any legacies, including participation in the Fisheries Legacy Trust Company (see Section 16.4), confirmation of marking any remains on mariners charts, inclusion in the 'Fishsafe' system and installation of navigational aids.

- Provide high level summary of actual costs and a general explanation of any difference against forecast costs.

13.2 Following submission of the Close-out Report to DECC the Operator will be asked to place a copy on their website. DECC will send a letter to the Operator to confirm acceptance of the close-out report. HM Revenue and Customs will regard DECC's acceptance of the close-out report as marking the completion of the project for tax purposes.

13.3 Companies should also remember that geotechnical data collected under the petroleum licence should either be placed in the National Hydrocarbons Data Archive (NHDA, http://www.bgs.ac.uk/nhda/) or kept in perpetuity in accordance with the licence model clauses. The NHDA option

should normally be considered at Cessation of Production. Further information regarding data storage requirements can be found at section 6.6 of the 'Guidance Notes of Procedures for Regulation of Offshore Oil and Gas Developments' which can be viewed on DECC's Oil & Gas Website at https://www.og.decc.gov.uk/regulation/guidance/index.htm

14. POST-DECOMMISSIONING MONITORING OF REMAINS

14.1 If, following OSPAR consultation procedures, it is agreed that a concrete installation or the 'footings' of a steel installation should be left in place, the condition of the remains will have to be monitored at appropriate intervals by the owners. A suitable monitoring regime should be agreed with DECC who will consult other Government Departments and Agencies with an interest. Details of the monitoring regime should be specified in the decommissioning programme.

14.2 The form and duration of the monitoring programme will depend upon the particular circumstances and if necessary will be adapted with time. Inspection reports should be submitted to DECC's Offshore Decommissioning Unit together with proposals for any maintenance or remedial work that may be required. The reports should also be published by appropriate means (e.g. on the internet).

14.3 In accordance with Annex 4 to the OSPAR Decision (which sets out the conditions to be attached to any permits granted in accordance with the Decision), the first step in any monitoring programme has to be taken *before* decommissioning operations begin. Annex 4 requires independent verification that the condition of the installation before the disposal operation commences is consistent with both the terms of the Secretary of State's approval and the information upon which the assessment of the proposed disposal is based. This will include details of the fate of any hazardous substances. The approach to this requirement will be addressed on a case by case basis. It will be for the Operator to propose a suitable organisation to carry out the independent verification.

14.4 In accordance with paragraph 10 of the OSPAR Decision it will be necessary for DECC to submit to OSPAR a post-disposal report indicating how the disposal operation was carried out, any immediate consequences of the disposal which have been observed and confirmation that the disposal has been implemented in accordance with the terms of the decommissioning programme. This report must be submitted within 6 months of the completion of the disposal. It will be drafted by DECC based on the Operator's Close-out report *(see Section 13 of this guidance).* DECC will provide the Operator with the opportunity to review the report before it is submitted to OSPAR.

14.5 Any pipelines left in place will also be subject to a monitoring regime agreed with DECC as part of the decommissioning programme (*see Section 10 of this guidance*).

15. MARKING OF REMAINS AND SAFETY ZONES

15.1 It is the Operator's responsibility to ensure that at least 6 weeks advance notification of the change in status of decommissioned installations and pipelines is given to:

The United Kingdom Hydrographic Office
Seabed Data Centre (Offshore Installations)
Admiralty Way
Taunton
Somerset
TA1 2DN

so that mariners may be advised and appropriate amendments made to charts.

15.2 In those cases where it is agreed that a concrete installation, the 'footings' of a steel installation or a pipeline should remain in place, the Operator must ensure that the position (horizontal datum to be stated), surveyed depth and dimensions of the remains are forwarded immediately to the Hydrographic Office, for inclusion on Admiralty charts. In addition, the Hydrographic Office Radio Navigation Warnings (RNW) section should be contacted 24 hours in advance of offshore activity concerning the removal and tow of platforms, FPSOs and other surface structures. The RNW duty officer can advise on details required and can be contacted on Tel: 01823 353448 (email: navwarnings@btconnect.com

15.3 It should be noted that drill cuttings accumulations will only be marked on Admiralty charts if it is considered that they present a danger to surface navigation or alter the charted seabed depth significantly. In such cases they would be recorded as a 'foul' or 'shoal depth'. Details of any cuttings piles that may fall into this category should be discussed with the Hydrographic Office.

15.4 It is the Operator's responsibility to install and maintain navigational aids for any remains of concrete installations that project above the surface of the sea. The nature of the navigational aids to be employed should be discussed with DECC, the relevant lighthouse authorities and with interested parties such as fishermen and other mariners. It is the Operator's responsibility to ensure the maintenance of any such navigational aids. Details of the action to be taken to advise mariners and mark any remains should be included in the decommissioning programme; the Hydrographic Office should be kept informed.

Safety Zones

15.5 A safety zone is an area of 500m radius established automatically around all offshore oil and gas installations which project above the sea at any state of the tide. Vessels of all nations are required to respect them. It is an offence (under section 23 of the Petroleum Act 1987) to enter a safety zone except under special circumstances. The zone stays in place during the decommissioning period and only ceases when the structure no longer projects above the surface

of the sea. Any doubt about the continuation of a safety zone during decommissioning work should be discussed with the HSE.

15.6 Safety zones around some installations emplaced before the introduction of the Petroleum Act 1987 were created by statutory instrument. The establishment of a safety zone around a sub-sea installation is also made by statutory instrument and application should be made to the HSE who will arrange consultation with other Government Departments. Following decommissioning it will be necessary to apply to the HSE for removal of a zone established by statutory instrument. If subsequently it becomes necessary to undertake any work on facilities that remain in place, the safety zone can be re-established to cover these works.

16. RESIDUAL LIABILITY AND DECOMMISSIONING LEGACIES

16.1 The persons who own an installation or pipeline at the time of its decommissioning will remain the owners of any residues. Any residual liability remains with the owners in perpetuity. In addition, those with a duty to secure the decommissioning programme is carried out will remain responsible for complying with any conditions attached to the Secretary of State's approval of the decommissioning programme. In cases of potential default where the Secretary of State is concerned that the current parties may no longer be able to carry out the approved programme he will consider whether to utilise section 34 of the Petroleum Act 1998 to give additional companies an obligation to carry out the work. Section 3 of this guidance provides further information regarding the use of section 34. Essentially any company that was previously in receipt of a section 29 notice for the equipment covered by the programme, or any person on whom notices could have been served since the serving of the first section 29 notice could be added as a party to the programme. This is a measure of last resort and only used in a potential default situation where significant work under the programme is necessary.

16.2 Any remains of installations or pipelines will be subject to monitoring at suitable intervals as specified in each decommissioning programme (*see Sections 10 and 14 of this guidance*) and may require maintenance or remedial action in the longer term. Such action may be the subject of a revision to the programme. Should remedial action be considered as a result of significant advances in technology a comparative assessment would need to be carried out to determine the benefits of such action in relation to safety, technical, environmental, social and cost aspects.

16.3 Any claims for compensation by third parties arising from damage caused by any remains will be a matter for the owners and the affected parties and will be governed by the general law.

16.4 Measures to manage the potential risks arising from any legacies should be addressed in the decommissioning programme. Legacies arising from offshore oil and gas activity have particular implications for fishermen. As a result, the oil and gas industry, through Oil & Gas UK, and fisherman's representatives have established a Fisheries Legacy Trust Company. This may manage some post-decommissioning activities and legacies and assists both industries to work safely and efficiently together by promoting harmonious working relations. Where the Trust Company is used to manage activities associated with a decommissioning project this should be reflected in the programme. *See the following links for more information*
http://www.oilandgasuk.co.uk/knowledgecentre/Fisheries.cfm
http://www.ukfltc.com/home.aspx

16.5 The relinquishment of the field licence is not related to completion of a decommissioning programme or any ongoing liabilities under it. The timing of relinquishment is a separate matter which should be discussed with DECC's Licensing Unit.

17. INDUSTRY CO-OPERATION AND SYNERGY

17.1 The Government encourages Industry co-operation and collaboration at the decommissioning stage in order to minimise its various impacts. The decommissioning phase, where the competitive pressures are less than at the development and production stage, offers an ideal opportunity for companies to share decommissioning expertise. This can range from co-operation on studies or the exchange of information or ideas to collaboration on specific decommissioning projects and proposals. Oil & Gas UK, the Pilot Initiative and The Early Decommissioning Synergy Group (TEDS) all promote co-operation. In discussing decommissioning proposals with operators, DECC will also seek to identify opportunities for co-operation wherever possible.

17.2 The development of new technology and new techniques to tackle the challenges that arise at the decommissioning stage will be particularly important. Much research and development work has already been done or is currently underway. The joint industry Decommissioning Technology Forum (DTF) has played an important part in identifying and developing specific areas of technology. The Industry Technology Facilitator (ITF) is identifying technology needs for the decommissioning phase and promoting their development and implementation. *Further information on the ITF is available from the following link:* *http://www.oil-itf.com/*

18. THE UK OIL PORTAL

18.1 In line with UK Government policy for all business processes to be carried out electronically, the UK Oil Portal provides authenticated access to the e-commerce systems of DECC's Energy Development Unit. The Portal provides a secure electronic environment which allows industry to apply for and receive consent or direction on a wide range of activities relating to hydrocarbon exploration, production, development, decommissioning and the protection of the environment.

18.2 The serving of notices under section 29 of the Petroleum Act 1998 *(see Section 3)* was transferred to the Portal in 2007. Other key decommissioning procedures will move to the Portal in due course.

18.3 Benefits of using the Portal for section 29 processes:

- makes the process more efficient by making electronic notifications immediately and concurrently available to all relevant parties, irrespective of their geographical location.
- contacts have 24 hour worldwide access to details of all section 29 notices issued to their company.
- takes advantage of a paperless transaction.
- provides a reliable audit of the notification process with accountability.
- provides the Offshore Decommissioning Unit with a direct and simple mechanism to disseminate relevant information to S29 Portal Contacts.
- provides easy access to support for both the business process and the information technology side.

18.4 For further details regarding Portal accounts for section 29 processes contact julie.benstead@decc.gsi.gov.uk (tel. 01224 254034). Account holders will only be given access to information relevant to their company.

19. PROVISION FOR HISTORICALLY IMPORTANT RECORDS

19.1 In March 2006 an initiative began to establish an archive of the UK offshore oil and gas industry with the aim of ensuring that important record material is preserved for future generations.

19.2 The idea evolved from a scheme already underway in Norway relating to records of the UK/Norwegian Frigg gas field, which ceased production in 2004. The UK project was launched at a successful conference 'Capturing the Energy' held in Aberdeen in March 2006. The conference urged wider recognition of the huge importance of the offshore oil and gas industry through the creation and exploitation of a UK archive.

19.3 The intention is that companies will make provision for keeping the most important records as their operations evolve, ensuring that they can be safely stored, in a centralised archive repository, or network of repositories, so that they can be made accessible both within the sector and wider community for current research and future generations.

19.4 A number of organisations have given their support to the initiative, including – Oil & Gas UK, major oil companies, Scottish Enterprise Grampian, the Royal Commission on the Ancient and Historical Monuments of Scotland (RCAHMS), the Business Archives Council of Scotland (BACS), Historic Scotland, Mearns and Gill, the University of Aberdeen and Aberdeen City Council. The hub of the archival network will be at the University of Aberdeen which has strong links with the sector.

19.5 DECC fully supports the scheme and recognises that decommissioning represents a key milestone which provides the opportunity to ensure that important data relating to the life of a field development and operations is preserved for the future. DECC has identified those projects which are of particular importance in this respect, and would encourage operators to discuss their records and information with the Capturing the Energy initiative.

19.6 Further details can be obtained from:

Capturing the Energy
Special Libraries & Archives
King's College
Aberdeen
AB24 3SW

http://www.capturing-the-energy.org.uk/
Email: info@capturing-the-energy.org.uk
Phone: +44 (0)1224 272972
Fax: +44 (0)1224 273891

ANNEX A

ASSESSMENT CRITERIA FOR OSPAR DEROGATION CANDIDATES

1. OSPAR Decision 98/3 recognises that there may be difficulty in removing the 'footings' of large steel jackets weighing more than 10,000 tonnes and in removing the substructures of concrete installations. Exceptional and unforeseen circumstances resulting from structural damage or deterioration or equivalent difficulties may also prevent an installation from being totally removed. As a result there is provision for derogation from the general rule of re-use, recycling or final disposal on land for these categories of installations.

2. If an installation falls within the derogation categories then a detailed assessment of the alternative disposal options must be carried out by the Operator. The framework for this assessment is set out in Annex 2 to the OSPAR Decision and includes an indication of the matters to be taken into account in assessing the disposal options.

3. For the matters identified in Annex 2 to the OSPAR Decision, operators should require the impact of each option to be assessed using established methodologies. The preferred option should be selected by focusing on the matters where the impacts of the options are significantly different. The means used to reach the conclusion should be described.

4. The presumption in the OSPAR Decision is that all installations will be removed. It is important therefore in comparing the options for derogation candidates to start from a baseline of complete removal. If the comparative assessment of the options identifies two or three matters that show a significant difference, judgement will need to be exercised as to which should be given the greatest consideration. There is no outright hierarchy, although balancing the safety and environmental impacts of the options, including the impact on climate change, will clearly be important. Options where the safety risks are intolerable or involve major unacceptable environmental impacts may be ruled out without further consideration. Proportionality must also be considered but it is unlikely that cost will be accepted as the main driver unless all other matters show no significant difference. The engagement of interested stakeholders in balancing the impacts of the options is strongly recommended.

5. The following Matrix and supporting information is designed to assist with the process and provide further information on the criteria that may be applied in carrying out an assessment of the options. The intention is to provide greater consistency to the evaluation of derogation cases, ensure transparency and in turn provide greater confidence in the derogation process.

6. Following detailed assessment of the options against the OSPAR framework the Operator may wish to present the outcomes in the form of the Matrix below or adapt it to the particular circumstances of the case. Inclusion of such a Matrix in the decommissioning programme together with an explanation of the basis for the ranking of the matters to be considered for each

decommissioning option will help to provide a clear overall indication of the acceptability of the derogation case.

7. Companies and government will also wish to take account of reputational issues from their own perspective. These are important considerations and may well influence the final decision. However, they should not be included in the comparative assessment process but addressed in a wider context and separately from the decommissioning programme.

		DECOMMISSIONING OPTIONS											
ASSESSMENT CRITERIA	**Matters to be considered**	Complete removal to land			Partial removal to land			Leave wholly in place			Disposal at sea *		
Safety	risk to personnel												
	risk to other users of the sea												
	risk to those on land												
Environmental	marine impacts												
	other environmental compartments (including emissions to the atmosphere)												
	energy/resource consumption												
	other environmental consequences (including cumulative effects)												
Technical	risk of major project failure												
Societal	fisheries impacts												
	amenities												
	communities												
Economic													
	HIGH		**MEDIUM**					**LOW**					

* Although under OSPAR Decision 98/3 the disposal of the substructure of a concrete installation at a deep-water licensed site is still an option this must be considered against the UK Government announcements at the time of the Decision when Ministers stated that there would be no toppling and no local or remote dumping of offshore installations.

NOTES

Safety:

- In assessing and comparing the safety risks of different options the general principles of risk management used within the industry should be applied.

- The use of quantitative risk assessment (QRA) techniques should be employed. Typical mechanisms include using Potential Loss of Life (PLL), Individual Risk Per Annum (IRPA) and Fatal Accident Rate (FAR) criteria.

- Comparison should be made with the risk levels generally supported by the Health & Safety Executive who define the maximum tolerable level of individual risk of fatality as 1 in 1000 per year, and for the broadly acceptable level of individual risk to be set in the range of 1 in 100,000 to 1 in 1 million per year.

- Where different corporate risk levels to those indicated above have been adopted, comparison should also be made with these.

The risks should also be set in context by drawing comparison with the risks that were judged to be acceptable during the installation and development phase and the risks that exist in other industries.

Environmental:

- The assessment and comparison of the environmental impacts of different options should be based on an Environmental Impact Assessment (EIA) carried out in accordance with the widely recognised techniques and standard methodologies for such evaluations. This should include consideration of the impact on climate change.

- DECC's Guidelines on the preparation of Environmental Statements provides further guidance (http://www.og.decc.gov.uk/environment/opppr_2007.htm).

- An assessment of the impact of all activities at the offshore location and also at the onshore dismantling and disposal site should be carried out. If the disposal site is not known, a generic assessment of environmental impacts at a typical disposal site should be carried out.

- In assessing energy and resource consumption, as well as any discharges or emissions to the environmental compartments, the internationally agreed principles for environmental life cycle assessments should be followed.

Technical feasibility:

Recognised QRA techniques, engineering and operational analysis should be used in combination to provide comprehensive, robust, quantitative and qualitative assessments of the options.

- Comparison should be made with accepted industry risk assessment criteria for marine operations. Consideration of the risks associated with the work will include evaluation of the maximum acceptable probability of a major accident, judged against corporate standards and where possible the criteria adopted during the installation phase.

- The assessment of the technical feasibility of different decommissioning options should be based on existing industry experience and available equipment. But where possible account should also be taken of the planned timing of the work and foreseeable developments in technology.

Societal

- The engagement of interested stakeholders will be important in order to assess and take account of the views of different interest groups. The Oil & Gas UK Guidelines on Stakeholder Engagement for Decommissioning Activities should be consulted at http://www.oilandgasuk.co.uk/

- The impacts on fisheries and fishing activity will be of particular importance. This should be assessed with regard to the level of activity in the area and the long-term impacts, the safety of fishermen and mitigation measures that can be put in place.

- Employment and regional development opportunities should be considered.

Economic

- Establishing accurate cost estimates is important not only from a company point of view but for Government given that under the UK tax regime a significant proportion of decommissioning costs ultimately falls to the Exchequer.

- In preparing cost estimates, account should be taken of the work undertaken in workgroup 4 of the Pilot Brownfields initiative to establish a common approach to decommissioning costs. Guidelines are available on the Oil & Gas UK website http://www.oilandgas.co.uk/

- In assessing alternative decommissioning options proportionality should be considered and costs should be balanced against the other assessment criteria. However, it is unlikely that costs alone will be accepted as the deciding factor in arriving at the preferred option unless all other matters show no significant difference.

Verification

In addition to stakeholder engagement it is important that the studies and the assessment process that supports the chosen decommissioning option are subject to independent expert verification. The purpose of this verification is to confirm that the assessments are reliable and there is no requirement to verify the final means of weighting and balancing the options but the process must be

transparent. This may involve the establishment of an independent review process to evaluate the scope, quality and application of the work undertaken. Experts in particular fields may be engaged to evaluate and confirm specific aspects of the project.

DECC may itself engage consultants to test particular aspects of the decommissioning proposals or to confirm that accepted practices and methodologies have been used.

OSPAR Decision 98/3 on the Disposal of Disused Offshore Installations

RECALLING the Convention for the Protection of the Marine Environment of the North East Atlantic, in particular Articles 2 and 5 of that Convention,

RECALLING the relevant provisions of the United Nations Convention on the Law of the Sea,

RECOGNISING that an increasing number of offshore installations in the maritime area are approaching the end of their operational life-time,

AFFIRMING that the disposal of such installations should be governed by the precautionary principle, which takes account of potential effects on the environment,

RECOGNISING that re-use, recycling or final disposal on land will generally be the preferred option for the decommissioning of offshore installations in the maritime area,

ACKNOWLEDGING that the national legal and administrative systems of the relevant Contracting Parties need to make adequate provision for establishing and satisfying legal liabilities in respect of disused offshore installations,

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

Definitions

1. For the purposes of this Decision, "concrete installation" means a disused offshore installation constructed wholly or mainly of concrete;

"disused offshore installation" means an offshore installation, which is neither

a. serving the purpose of offshore activities for which it was originally placed within the maritime area, nor
b. serving another legitimate purpose in the maritime area authorized or regulated by the competent authority of the relevant Contracting Party;

but does not include:

c. any part of an offshore installation which is located below the surface of the sea-bed, or
d. any concrete anchor-base associated with a floating installation which does not, and is not likely to, result in interference with other legitimate uses of the sea;

"relevant Contracting Party" means the Contracting Party, which has jurisdiction over the offshore installation in question;

"steel installation" means a disused offshore installation, which is constructed wholly or mainly of steel;
"topsides" means those parts of an entire offshore installation which are not part of the substructure and includes modular support frames and decks where their removal would not endanger the structural stability of the substructure;

"footings" means those parts of a steel installation which:

(i) are below the highest point of the piles which connect the installation to the sea-bed;
(ii) in the case of an installation built without piling, form the foundation of the installation and contain amounts of cement grouting similar to those found in footings as defined in sub-paragraph 3(a); or
(iii) are so closely connected to the parts mentioned in subparagraphs (i) and (ii) of this definition as to present major engineering problems in severing them from those parts.

Programmes and Measures

2. The dumping, and the leaving wholly or partly in place, of disused offshore installations within the maritime area is prohibited.

3. By way of derogation from paragraph 2, if the competent authority of the relevant Contracting Party is satisfied that an assessment in accordance with Annex 2 shows that there are significant reasons why an alternative disposal mentioned below is preferable to re-use or recycling or final disposal on land, it may issue a permit for

a. all or part of the footings of a steel installation in a category listed in Annex 1, placed in the maritime area before 9 February 1999, to be left in place;
b. a concrete installation in a category listed in Annex 1 or constituting a concrete anchor base, to be dumped or left wholly or partly in place;
c. any other disused offshore installation to be dumped or left wholly or partly in place, when exceptional and unforeseen circumstances resulting from structural damage or deterioration, or from some other cause presenting equivalent difficulties, can be demonstrated.

4. Before a decision is taken to issue a permit under paragraph 3, the relevant Contracting Party shall first consult the other Contracting Parties in accordance with Annex 3.

5. Any permit for a disused offshore installation to be dumped or permanently left wholly or partly in place shall accord with the requirements of Annex 4.

6. Contracting Parties shall report to the Commission by 31 December 1999, and every 2 years thereafter, relevant information on the offshore installations

within their jurisdiction including, when appropriate, information on their disposal for inclusion in the inventory to be maintained by the Commission.

7. In the light of experience in decommissioning offshore installations, in particular those in categories listed in Annex 1, and in the light of relevant research and exchange of information, the Commission shall endeavour to achieve unanimous support for amendments to that Annex in order to reduce the scope of possible derogations under paragraph 3. The preparation of such amendments shall be considered by the Commission at its meeting in 2003 and at regular intervals thereafter.

Entry into force

8. This Decision enters into force on 9 February 1999, and shall then replace Decision 95/1 of the Oslo Commission concerning the Disposal of Offshore Installations.

Implementation Reports

9. If any Contracting Party decides to issue a permit for a disused offshore installation to be dumped or left wholly or partly in place within the maritime area, it shall submit to the Commission at the time of the issue of the permit a report in accordance with paragraph 3 of Annex 4.

10. If any disused offshore installation is dumped or left wholly or partly in place within the maritime area, the relevant Contracting Party shall submit to the Commission, within 6 months of the disposal, a report in accordance with paragraph 4 of Annex 4.

[ANNEX 1 to OSPAR Decision 98/3]

CATEGORIES OF DISUSED OFFSHORE INSTALLATION WHERE DEROGATIONS MAY BE CONSIDERED

The following categories of disused offshore installations, excluding their topsides, are identified for the purpose of paragraph 3:

a. steel installations weighing more than ten thousand tonnes in air;

b. gravity based concrete installations;

c. floating concrete installations;

d. any concrete anchor-base which results, or is likely to result, in interference with other legitimate uses of the sea.

[ANNEX 2 to OSPAR Decision 98/3]

FRAMEWORK FOR THE ASSESSMENT OF PROPOSALS FOR THE DISPOSAL AT SEA OF DISUSED OFFSHORE INSTALLATIONS

General Provisions

1. This framework shall apply to the assessment, by the competent authority of the relevant Contracting Party, of proposals for the issue of a permit under paragraph 3 of this Decision.

2. The assessment shall consider the potential impacts of the proposed disposal of the installation on the environment and on other legitimate uses of the sea. The assessment shall also consider the practical availability of re-use, recycling and disposal options for the decommissioning of the installation.

Information required

3. The assessment of a proposal for disposal at sea of a disused offshore installation shall be based on descriptions of:

a. the characteristics of the installation, including the substances contained within it; if the proposed disposal method includes the removal of hazardous substances from the installation, the removal process to be employed, and the results to be achieved, should also be described; the description should indicate the form in which the substances will be present and the extent to which they may escape from the installation during, or after, the disposal;

b. the proposed disposal site: for example, the physical and chemical nature of the sea-bed and water column and the biological composition of their associated ecosystems; this information should be included even if the proposal is to leave the installation wholly or partly in place;

c. the proposed method and timing of the disposal.

4. The descriptions of the installation, the proposed disposal site and the proposed disposal method should be sufficient to assess the impacts of the proposed disposal, and how they would compare to the impacts of other options.

Assessment of disposal

5. The assessment of the proposal for disposal at sea of a disused offshore installation shall follow the broad approach set out below.

6. The assessment shall cover not only the proposed disposal, but also the practical availability and potential impacts of other options. The options to be considered shall include:

a. re-use of all or part of the installation;
b. recycling of all or part of the installation;
c. final disposal on land of all or part of the installation;
d. other options for disposal at sea.

Matters to be taken into account in assessing disposal options

7. The information collated in the assessment shall be sufficiently comprehensive to enable a reasoned judgement on the practicability of each of the disposal options, and to allow for an authoritative comparative evaluation. In particular, the assessment shall demonstrate how the requirements of paragraph 3 of this Decision are met.

8. The assessment of the disposal options shall take into account, but need not be restricted to:

a. technical and engineering aspects of the option, including re-use and recycling and the impacts associated with cleaning, or removing chemicals from, the installation while it is offshore;
b. the timing of the decommissioning;
c. safety considerations associated with removal and disposal, taking into account methods for assessing health and safety at work;
d. impacts on the marine environment, including exposure of biota to contaminants associated with the installation, other biological impacts arising from physical effects, conflicts with the conservation of species, with the protection of their habitats, or with mariculture, and interference with other legitimate uses of the sea;
e. impacts on other environmental compartments, including emissions to the atmosphere, leaching to groundwater, discharges to surface fresh water and effects on the soil;
f. consumption of natural resources and energy associated with re-use or recycling;
g. other consequences to the physical environment which may be expected to result from the options;
h. impacts on amenities, the activities of communities and on future uses of the environment; and
i. economic aspects.

9. In assessing the energy and raw material consumption, as well as any discharges or emissions to the environmental compartments (air, land or water), from the decommissioning process through to the re-use, recycling or final disposal of the installation, the techniques developed for environmental life cycle assessment may be useful and, if so, should be applied. In doing so, internationally agreed principles for environmental life cycle assessments should be followed.

10. The assessment shall take into account the inherent uncertainties associated with each option, and shall be based upon conservative assumptions about potential impacts. Cumulative effects from the disposal of installations in the maritime area and existing stresses on the marine environment arising from other human activities shall also be taken into account.

11. The assessment shall also consider what management measures might be required to prevent or mitigate adverse consequences of the disposal at sea, and shall indicate the scope and scale of any monitoring that would be required after the disposal at sea.

Overall assessment

12. The assessment shall be sufficient to enable the competent authority of the relevant Contracting Party to draw reasoned conclusions on whether or not to issue a permit under paragraph 3 of this Decision and, if such a permit is thought justified, on what conditions to attach to it. These conclusions shall be recorded in a summary of the assessment which shall also contain a concise summary of the facts which underpin the conclusions, including a description of any significant expected or potential impacts from the disposal at sea of the installation on the marine environment or its uses. The conclusions shall be based on scientific principles and the summary shall enable the conclusions to be linked back to the supporting evidence and arguments. Documentation shall identify the origins of the data used, together with any relevant information on the quality assurance of that data.

CONSULTATION PROCEDURE

1. A relevant Contracting Party which is considering whether to issue a permit under paragraph 3 of this Decision shall start this consultation procedure at least 32 weeks before any planned date of a decision on that question by sending to the Executive Secretary a notification containing:

   a. an assessment prepared in accordance with Annex 2 to this Decision, including the summary in accordance with paragraph 12 of that Annex;

   b. an explanation why the relevant Contracting Party considers that the requirements of paragraph 3 of this Decision may be satisfied;

   c. any further information necessary to enable other Contracting Parties to consider the impacts and practical availability of options for re-use, recycling and disposal.

2. The Executive Secretary shall immediately send copies of the notification to all Contracting Parties.

3. If a Contracting Party wishes to object to, or comment on, the issue of the permit, it shall inform the Contracting Party which is considering the issue of the permit not later than the end of 16 weeks from the date on which the Executive Secretary circulated the notification to the Contracting Parties, and shall send a copy of the objection or comment to the Executive Secretary. Any objection shall explain why the Contracting Party which is objecting considers that the case put forward fails to satisfy the requirements of paragraph 3 of this Decision. That explanation shall be supported by scientific and technical arguments. The Executive Secretary shall circulate any objection or comment to the other Contracting Parties.

4. Contracting Parties shall seek to resolve, by mutual consultations, any objections made under the previous paragraph. As soon as possible after such consultations, and in any event not later than the end of 22 weeks from the date on which the Executive Secretary circulated the notification to the Contracting Parties, the Contracting Party proposing to issue the permit shall inform the Executive Secretary of the outcome of the consultations. The Executive Secretary shall forward the information immediately to all other Contracting Parties.

5. If such consultations do not resolve the objection, the Contracting Party which objected may, with the support of at least two other Contracting Parties, request the Executive Secretary to arrange a special consultative meeting to discuss the objections raised. Such a request shall be made not later than the end of 24 weeks from the date on which the Executive Secretary circulated the notification to the Contracting Parties.

6. The Executive Secretary shall arrange for such a special consultative meeting to be held within 6 weeks of the request for it, unless the Contracting Party considering the issue of a permit agrees to an extension. The meeting shall be open to all Contracting Parties, the operator of the installation in question and all observers to the Commission. The meeting shall focus on the information provided in accordance with paragraphs 1 and 3 and during the consultations under paragraph 4. The chairman of the meeting shall be the Chairman of the Commission or a person appointed by the Chairman of the Commission. Any question about the arrangements for the meeting shall be resolved by the chairman of the meeting.

7. The chairman of the meeting shall prepare a report of the views expressed at the meeting and any conclusions reached. That report shall be sent to all Contracting Parties within two weeks of the meeting.

8. The competent authority of the relevant Contracting Party may take a decision to issue a permit at any time after:

a. the end of 16 weeks from the date of dispatch of the copies under paragraph 2, if there are no objections at the end of that period;

b. the end of 22 weeks from the date of dispatch of the copies under paragraph 2, if any objections have been settled by mutual consultation under paragraph 4;

c. the end of 24 weeks from the date of dispatch of the copies under paragraph 2, if there is no request for a special consultative meeting under paragraph 5;

d. receiving the report of the special consultative meeting from the chairman of that meeting.

9. Before making a decision with regard to any permit under paragraph 3 of this Decision, the competent authority of the relevant Contracting Party shall consider both the views and any conclusions recorded in the report of the special consultative meeting, and any views expressed by Contracting Parties in the course of this procedure.

10. Copies of all the documents which are to be sent to all Contracting Parties in accordance with this procedure shall also be sent to those observers to the Commission who have made a standing request for this to the Executive Secretary.

PERMIT CONDITIONS AND REPORTS

1. Every permit issued in accordance with paragraph 3 of this Decision shall specify the terms and conditions under which the disposal at sea may take place, and shall provide a framework for assessing and ensuring compliance.

2. In particular, every permit shall:
   a. specify the procedures to be adopted for the disposal of the installation;
   b. require independent verification that the condition of the installation before the disposal operation starts is consistent both with the terms of the permit and with the information upon which the assessment of the proposed disposal was based;
   c. specify any management measures that are required to prevent or mitigate adverse consequences of the disposal at sea;
   d. require arrangements to be made, in accordance with any relevant international guidance, for indicating the presence of the installation on nautical charts, for advising mariners and appropriate hydrographic services of the change in the status of the installation, for marking the installation with any necessary aids to navigation and fisheries and for the maintenance of any such aids;
   e. require arrangements to be made for any necessary monitoring of the condition of the installation, of the outcome of any management measures and of the impact of its disposal on the marine environment and for the publication of the results of such monitoring;
   f. specify the responsibility for carrying out any management measures and monitoring activities required and for publishing reports on the results of any such monitoring;
   g. specify the owner of the parts of the installation remaining in the maritime area and the person liable for meeting claims for future damage caused by those parts (if different from the owner) and the arrangements under which such claims can be pursued against the person liable.

3. Every report under paragraph 9 of this Decision shall set out:
   a. the reasons for the decision to issue a permit under paragraph 3;
   b. the extent to which the views recorded in the report of the special consultative meeting under paragraph 7 of Annex 3 to this Decision, or expressed by other Contracting Parties during the procedure under that Annex, were accepted by the competent authority of the relevant Contracting Party;
   c. the permit issued.

4. Every report under paragraph 10 of this Decision shall set out:

   a. the steps by which the disposal at sea was carried out;

   b. any immediate consequences of the disposal at sea which have been observed;

   c. any further information available on how any management measures, monitoring or publication required by the permit will be carried out.

ANNEX C

THE CONTENTS OF A DECOMMISSIONING PROGRAMME

Presentation

The draft programme should be presented in a form that allows ready updating and change. Each draft should be dated, pages should be numbered, and any diagrams, charts etc should be annexed to the main text. The maximum use should be made of tabular presentation. To reduce the burden on industry, DECC invites companies to prepare drafts which are as short as possible, consistent with providing information discussed below proportionate to the project concerned.

Separate programmes should be prepared for pipelines and installations although these can be contained within the same decommissioning document. This is necessary because the Petroleum Act 1998 has the effect of requiring a decommissioning programme in respect of each set of equipment which is the subject of a section 29 notice or series of related section 29 notices. It should be possible to identify the different programmes in order to isolate the liabilities of the different groups of notice holders.

There is further guidance at the end of this Annex on how to structure combined decommissioning documents.

The format and content of the draft programme should, where appropriate, accord with the following guidance:

Format and Content

1. Introduction

A brief introductory paragraph indicating that the decommissioning programme is being submitted for approval in accordance with the requirements of the Petroleum Act 1998. It should also clearly indicate the companies that will be a party to the programme and any differences in ownership status.

2. Executive Summary

A management summary outlining the background to the decommissioning proposals and highlighting the essential features of the proposed method of decommissioning.

3. Background Information

Relevant background information, supported by diagrams, including:

- The relative layout of the facilities to be decommissioned (installations, subsea equipment and pipelines).

- The relative location, type and status of any other adjacent facilities (telephone cables, other pipelines and platforms etc) which would have to be taken into consideration.

- Information on prevailing weather, sea states, currents, seabed conditions, water depths etc.

- Any fishing, shipping and other commercial activity in the area.

- Any other background information relevant to consideration of the draft decommissioning programme.

4. Description of Items to be Decommissioned

A description, inclusive of diagrams, covering:

Installations

- Support structures for fixed and floating installations (type, size, arrangement and weights).

- Topsides for fixed and floating installations (type, size, configuration, equipment and weights).

- A list of all wells (including subsea and satellite wells and whether active, suspended or abandoned).

- Subsea equipment on or in the seabed (size, weight, height above seabed, whether piled or not, type of construction and material, details of interaction between equipment and other uses of the sea, e.g. fishing).

- Offshore loading facilities.

- Any other installed items.

Pipelines, flow lines and umbilicals

- Lengths, diameters, type of construction.

- The extent of burial, trenching and details of any concrete mattresses, grout bags, rock-dump or other materials used to cover the lines.

- Details of any subsea facilities that form part of the pipelines (e.g. PLEM, UTA, riser anchor bases).

- The stability of the pipelines including details of any spanning or exposure (survey data and history to support information given in this section should be included as an annex to the programme).

- Details of interaction between any part of the pipelines and other uses of the sea (e.g. fishing).

Materials on the Seabed

- Drill cuttings (amount, composition, dimensions) or cross-reference the drill cuttings section of the programme if appropriate.

- Debris.

- Any other materials.

In some cases there will be related equipment, usually within the same field, that is not covered by the decommissioning programme. If appropriate this should be listed here for clarity and an explanation given of why it is not part of the programme. The requirement for this will vary with each case and will be established during early discussions with DECC in stage 1 of programme development.

5. Inventory of Materials

For all items described under 4 above, include an inventory listing the amount, type and relative location of all materials including hydrocarbons, sludges, heavy metals, sacrificial anodes and any radioactive material including LSA (Low Specific Activity) scale. Where exact quantities cannot be verified, estimates should be calculated.

6. Removal and Disposal Options

This section will provide a general description of the alternative removal and disposal options for the items described in 4 above. It should include a short list of options and the reasons for rejecting those not short-listed.

Re-use and Phasing

Particular consideration should be given to the possibility for re-use and the potential for the beneficial phasing/integration of decommissioning activity between operators, e.g. within a particular geographic area or specialist type of work, in order to realise any economies of scale that are possible.

Comparative Assessment

If the programme relates to an installation for which the owners are seeking a derogation under paragraph 3 of OSPAR Decision 98/3 then a detailed comparative evaluation of the alternative disposal options must be included in this section. The terms of the evaluation and the information to be included is set out in Annex 2 to the OSPAR Decision. (*See Annex B of these Guidance Notes*). In deciding whether a case has been made out for a derogation DECC will judge the comparative assessment against the criteria and approach set out in *Annex A.*

Similarly, a programme for pipelines, should also include a comparative assessment. In order to arrive at the best decommissioning option, the assessment should examine and compare each option on the basis of: complexity and associated technical risk; risks to personnel; environmental impact; effect on safety of navigation and other uses of the sea; and economics. *(See Section 10)*

7. Selected Removal and Disposal Option

This section should describe the proposed decommissioning option. It should include:

- The removal and disposal option, describing the removal method and the disposal route, recognising any potential transfrontier shipment of waste issues.

- An indication of how the principles of the waste hierarchy will be met, including the extent to which the installation or any part of it, including the topsides and the materials contained within it, will be re-used, recycled or scrapped.

- Details of any cleaning or removal of waste materials, including cleaning methods; cleaning agents and disposal of residues.

- A clear outline of how the disposal of any radioactive material, including LSA scale, will be addressed. If appropriate this should include an indication of whether the potential disposal route requires authorisation under the Radioactive Substances Act 1993 and whether the appropriate authorisation is already in place.

- Details of any materials and remains on the seabed after decommissioning.

- Water clearances above any remains.

- Predicted degradation, movement and stability of any remains.

8. Wells

The abandonment of wells is regulated under the model clauses incorporated in individual licences. In addition, section 75 of the Energy Act 2008 gives the Secretary of State power to require information and, specific action to be taken in relation to well abandonment. This action includes the provision of financial security for the purpose of ensuring that a person will be capable of plugging and abandoning a well when required to do so by the terms of the licence. However, long-term obligations in respect of abandoned wells will be subject to Part IV of the Petroleum Act. The decommissioning programme should therefore contain:

- A listing of all active, suspended and previously abandoned wells relating to the installation. It should be possible from this list to

identify each individual well. If this information is already included in section 4 (description of items to be decommissioned) it does not need to be repeated but can simply be cross referenced.

- A summary of the methods used or proposed to be used to abandon the wells. This requirement will be met by confirmation that abandonment has been carried out in accordance with the Oil & Gas UK Guidelines for the Suspension and Abandonment of Wells and that a PON5 will be submitted in support of any works that are to be carried out. *Guidelines on well abandonment are available from http://www.oilandgasuk.co.uk/ and further details regarding the PON5 process can be found at: https://www.og.decc.gov.uk/regulation/pons/pon_05.htm*.

9. Drill Cuttings

This section should describe actions taken to implement the requirements of OSPAR Recommendation 2006/5 *(see Section 11 and Annex I)*. If it has been agreed that Stage 2 of the management regime set out in the Recommendation is necessary and can be initiated at the time of decommissioning, the programme should contain the outcomes including the required comparative assessment, the conclusions from it and the proposed action to deal with the cuttings pile. Where initial screening assessed the accumulations as below the Stage 1 threshold, details regarding the cuttings pile should still be included in the programme. This is particularly important where extrapolation of data for other piles was the basis for the initial assessment. At the time of decommissioning survey data should be presented to support the initial findings and, where either threshold in Recommendation 2006/5 is exceeded, a comparative assessment and proposed action to deal with the pile, in line with Stage 2 of the Recommendation's management regime, should be conducted.

10. Environmental Impact Assessment

This section should include an Environmental Impact Assessment (EIA) of the selected decommissioning option. It should not be necessary to repeat information that is presented elsewhere in the decommissioning programme but an assessment of the potential effects of the project on the environment and climate change must be undertaken and the measures envisaged to avoid, reduce and, if possible remedy any significant adverse effects indicated. The EIA should include the following:

- All potential impacts on the marine environment, including exposure of biota to contaminants associated with the installation, other biological impacts arising from physical effects, conflicts with the conservation of species, with the protection of their habitats, or with mariculture, and interference with other legitimate uses of the sea.

- All potential impacts on other environmental compartments, including emissions to the atmosphere, leaching to groundwater, discharges to surface fresh water and effects on the soil.

- Consumption of natural resources and energy associated with re-use and recycling.

- Other consequential effects on the physical environment which may be expected to result from the option.

- Potential impacts on amenities, the activities of communities and on future uses of the environment.

EU Habitats and Birds Directive

It is expected that a properly conducted EIA would:

- Identify any habitats or species listed in Annex I of the Habitats and Birds Directives and covered by the Offshore Petroleum Activities (Conservation of Habitats) Regulations 2001;

- Determine the likely impacts on them of the decommissioning activities and propose any suitable mitigation;

- Propose an appropriate management system.

These findings should be included in the decommissioning programme as part of the EIA and will provide the information for DECC as competent authority for the Habitats Regulations offshore, to undertake an appropriate assessment if this is required.

For proposed activities within 40 km of the coast the possibility of the operations, or an accident or incident during the operations, impacting protected coastal habitats and species must also be considered. The EIA must also identify and address these risks and provide sufficient information to allow an appropriate assessment to be prepared where necessary.

Within any assessment all future requirements to undertake post-decommissioning surveys and potential remedial works must be clear. Where these activities could impact protected habitats or species, this must be addressed in the EIA and a further appropriate assessment may be required prior to the post-decommissioning activities.

Further Natura 2000 sites, e.g. a Special Area of Conservation (SAC) or Special Protection Areas (SPA), are likely to be identified and other conservation areas may be designated in areas where at the time of decommissioning no known sites were present. It is the responsibility of the Operator to ensure that all future activities meet the requirements of the Regulations and they should approach DECC prior to any activities being undertaken.

Where activities require formal environmental approval, e.g. a chemical or oil discharge permit, there will normally be a recommended 28 day notification period and a requirement to undertake an appropriate assessment could add weeks to the approval process.

Use of Explosives

As part of the EIA it will be necessary to assess the potential impacts of the use of any explosives on marine life in particular marine mammals. The use of explosives can be permitted where this is shown to be the best practicable environmental option. The impact assessment should include a description to justify the necessity to use explosives including the alternatives which have been considered; the potential impacts of the explosive use and the proposed mitigation strategy. Suggestions for appropriate mitigation are included within the JNCC Guidelines for minimising acoustic disturbance to marine mammals whilst using explosives, available from the JNCC (http://www.jncc.gov.uk/default.aspx?page=4900).

11. Interested Party Consultations

A description is required of the consultation process employed, including a summary of the statutory consultations with interested parties and the extent to which they have been taken into account in the programme. Relevant correspondence should be annexed to the programme. In those cases where it has been necessary to conduct a wide ranging public consultation/dialogue process, including any informal consultations with OSPAR Contracting Parties, details of the approach taken and the outcome of the process should be included.

12. Costs

There should be an overall cost estimate in £ sterling of the preferred decommissioning option and an indication of the basis on which the estimate is made. The estimate should be broken down to reflect the activities in the 'Element Level' of the Oil & Gas UK Decommissioning Cost Estimating Guidelines. These guidelines have been developed in workgroup 4 of the Brownfields decommissioning initiative with the aim of establishing a common approach to decommissioning costs. The guidelines are available on Oil & Gas UK's website using the following link: http://www.oilandgasuk.co.uk/

If it is anticipated the decommissioning work will span a number of years, expenditure should be split by year. In cases with more than one platform, expenditure should be split by platform.

It is recognised that in some cases accurate cost data and confirmation of the final decommissioning option are dependent on the outcome of a commercial tendering process. Operators should discuss any sensitivities about cost data with DECC.

13. Schedule

Details of the decommissioning time scale for the proposed option, including a schedule showing the dates at which the various stages of the decommissioning are expected to start and finish, should be included.

14. Project Management and Verification

Information on how the Operator will manage the implementation of the decommissioning programme and provide verification to DECC concerning progress and compliance. This should include a commitment to submit a report, detailing how the programme was carried out, within four months of completion of the decommissioning work, including debris clearance and post-decommissioning surveys *(see Section 13)*.

15. Debris Clearance

This section should include proposals for identification and removal of seabed debris following decommissioning works. As a minimum the area covered for debris clearance should include a 500m radius around any installation and a 200m corridor along the length of any pipelines. Identification of debris would normally be conducted by side scan sonar with an ROV deployed to investigate and recover any potential hazards located. Following this work, verification of seabed clearance by an independent organisation will normally be required. This requirement will depend on the circumstances of the case and will be decided in discussion with DECC.

16. Post-Decommissioning Monitoring and Maintenance

Proposals covering the post-decommissioning phase:

- Seabed sampling surveys to monitor levels of hydrocarbons, heavy metals and other contaminants in sediments and biota. There should be a commitment to submit the results of surveys to DECC. On completion of the last intended survey, the requirement for further work will depend on the results and will be agreed in discussion with DECC.

- Inspection and maintenance where remains are to be left in place. There should be a commitment to report the outcome of this work to DECC. If a long-term schedule of inspection and maintenance is not given, there should at least be a commitment to conduct further work in response to the results of the initial inspection and in consultation with DECC.

17. Supporting Studies

Where supporting studies have been undertaken they should be listed within the programme and should be available to enquirers on request.

18. Structure of Combined Decommissioning Programmes

Where it has been agreed in discussion with DECC that it would be beneficial to include more than one programme within a decommissioning document, it should take account of the following:

- In the Introduction provide a clear statement that the document contains a separate programme for each set of associated notices served under section 29 of the Petroleum Act 1998.

- The Introduction should identify the obligations associated with each programme. The programmes should be listed indicating which installations or pipelines are covered by each one and what companies will be a party to which programme. To further identify the obligations it is useful to include a table indicating which sections and subsections of the document refer to each separate programme.

- Clear identification of costs and show which programme they refer to.

- The responsibility for any survey and monitoring requirements should be clearly allocated to individual programmes or clearly shared by all.

- A timetable that shows the work for all programmes.

There is no need to duplicate sections. If a section contains information relating to separate programmes, subsections can be used to highlight the allocation e.g. costs. In most cases the need to include more than one programme in a decommissioning document will arise in the context of pipelines. As indicated above decommissioning proposals for pipelines should be contained within a separate programme in order to be able to clearly identify the specific decommissioning obligations that apply to the lines, which may have different owners from the installations.

ANNEX D

OTHER LEGISLATION, REGULATIONS AND CONTROLS

1. The following provides an indication of the legislation, in addition to the Petroleum Act 1998 and the environmental regulations referenced in section 12, that may apply to decommissioning activity. The table at the end of this Annex summarises the activities involved and the permits or authorisations likely to be required. The list is not intended to be exhaustive as individual cases will differ. Operators should discuss their decommissioning proposals with the relevant Departments and Agencies responsible for the legislation.

The Coast Protection Act 1949

2. This Act, as extended by the Continental Shelf Act 1964, contains provisions for the safety of navigation. Before an installation or pipeline can be placed on the UKCS the consent of the Secretary of State for Energy and Climate Change is required under section 34, Part II of the Act. The standard form of consent will normally be subject to the standard marking conditions. If variations are proposed or required in a particular case, special conditions may be added. If a facility "falls into disuse" there is a requirement for operators to take steps for the purpose of preventing obstruction or danger to navigation as directed by the Secretary of State. The satisfactory completion of a decommissioning programme approved under the Petroleum Act 1998 should satisfy the requirements of the Coast Protection Act.

Food and Environment Protection Act 1985

3. A licence is required, under Part II of the Food and Environment Protection Act 1985 (FEPA) as amended, for the deposit of substances or articles within United Kingdom Continental Shelf, either in the sea or under the seabed unless exempt under the Deposits in the Sea (Exemptions) Order 1985. Schedules 14, 15 and 16 specifically exempt many oil and gas exploration and production activities as these are controlled by DECC's own legislation.

4. For the deposit of any substances or articles in respect of oil and gas activities which are not exempt (such as deposits made in connection with offshore decommissioning activity) a FEPA licence may be required. For the waters adjacent to England and Wales, FEPA is administered by the Marine Management Organisation (MMO) of the Department for Environment, Food and Rural Affairs, and in waters adjacent to Northern Ireland by the Northern Ireland Environment Agency of the Department of the Environment (Northern Ireland). For such deposits in waters adjacent to Scotland, DECC is the responsible licensing authority, except in relation to activities in certain "controlled waters", where the licensing authority is the Scottish Government – Marine Scotland. These "controlled waters" extend to 3 nautical miles from a defined coastal baseline within the meaning of section 30A(1) of the Control of Pollution Act 1974.

The Environmental Permitting (England and Wales) Regulations 2007, Pollution Prevention and Control Act 1999 and Waste Management Licensing Regulations 1994,

5. In England and Wales, the Environmental Permitting (England and Wales) Regulations 2007 (EPR) cover facilities previously regulated under the Pollution Prevention and Control Regulations (PPC)_ and the Waste Management Licensing Regulations 1994 (WML). PPC and WML continue to pertain to Scotland.

6. EPR/PPC provide robust legislative systems to regulate industrial processes involved in the treatment of certain prescribed wastes. These include the metal processing industry, which may recover metallic items from a decommissioning operation, and the incineration of wastes. Anyone carrying out these processes must do so in compliance with an environmental permit/authorisation that is designed to prevent pollution of the environment or harm to human health. These are the responsibility of the Scottish Environment Protection Agency (SEPA) in Scotland and the Environment Agency (EA) in England and Wales.

7. EPR/WML are the main means by which the requirements of the EC Framework Directive on Waste is transposed into domestic law. Anyone who deposits, recovers or disposes of controlled waste must do so in compliance with the conditions of an environmental permit/waste management licence, or within the terms of an exemption from the need for a permit/licensing, and in a way which does not cause pollution of the environment or harm to human health.

8. The term "controlled waste" means household, commercial and industrial waste. Whether or not a substance is waste must be determined on the facts of the case, and advice should be sought from the Agencies. (Guidance on the definition of waste is contained in DOE Circular 11/94 which is currently being updated.)

9. In determining an application for a permit/licence, the Agencies must be satisfied that the activities will not cause harm to human health or pollute the environment and the site is managed by a fit and proper person.

The Environmental Protection Act 1990

10. In addition to the above, persons concerned with controlled waste are under a duty of care, under the EPA1990, to ensure that the waste is managed properly, recovered or disposed of safely, does not cause harm to human health or pollution of the environment and is only transferred to someone who is authorised to receive it. This duty applies to any person who produces, imports, carries, keeps, treats or disposes of controlled waste or as a broker has control of such waste. Breach of the duty of care is an offence, with a penalty of up to £5000 on summary conviction or an unlimited fine on conviction on indictment. As part of DEFRA's simplification of the regulatory controls for handling, transferring and transporting waste they are currently considering extending the

duty of care under the EPA to include those involved in transfrontier shipment of waste.

11. The system for the registration of waste carriers is set up under the Control of Pollution (Amendment) Act 1989 and the Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations 1991 (as amended). Those who, in the course of their business or in any other way for profit, transport controlled waste within Great Britain must register with the Environment Agency as carriers of controlled waste.

Special Waste Regulations 1996 – Special Waste Amendment (Scotland) Regulations 2004 / Hazardous Waste (England and Wales) Regulations 2005

12. Depending on its nature and composition waste may be defined as special waste (in Scotland) / hazardous waste (in England and Wales) within the UK. Special/hazardous wastes are those that are potentially the most difficult and dangerous and listed on the European Union's Hazardous Waste List. The Regulations require all movement of special/hazardous waste to be tracked by way of a consignment note system.

Transfrontier Shipment of Waste Regulations 2007

13. The international movement of waste is controlled by means of Council Regulation No 1013/2006/EC on shipments of waste (the "WSR"). The Transfrontier Shipment of Waste Regulations 2007 gives effect to certain aspects of the WSR into UK law, nominate the competent authorities for the UK and provide them with their respective enforcement powers. The UK Plan for Shipments of Waste sets out Government policy on shipments for disposal. The Regulations are enforced by the EA (England and Wales), SEPA (Scotland) and NI Environment Agency (Northern Ireland). The regulations apply to decommissioned offshore installations. The Secretary of State is the competent authority for the offshore area. Operators should consult the appropriate Agency when considering decommissioning activities that involve transboundary movements of waste.

Radioactive Substances Act 1993

14. Anyone who receives radioactive sources or radioactive waste for disposal is subject to the requirements of the Radioactive Substances Act 1993 (RSA 93). Under this Act they must have an authorisation from the appropriate regulatory body (EA in England & Wales; SEPA in Scotland) for the accumulation, storage or disposal of radioactive waste or be able to demonstrate compliance with the conditions contained in specific exemption orders. The Act does apply to offshore installations and the preparation of a decommissioning programme should identify whether the selected disposal route requires such an authorisation and that the selected facility has one. It is likely that new disposal routes will require an application for authorisations.

Transfrontier Shipment of Radioactive Waste and Spent Fuel Regulations 2008

15. The Transfrontier Shipment of Radioactive Waste and Spent Fuel Regulations 2008 (TFSRWR 2008) transpose Council Directive 2006/117/Euratom on the supervision and control of shipments of radioactive waste and spent fuel. TFSRWR 2008 make it an offence to ship radioactive waste or spent fuel into or out of the UK unless authorised by the appropriate authority. The new regulations came into force on 25 December 2008 and are administered by the EA in England and Wales, SEPA in Scotland and the Chief Inspector in Northern Ireland. They replace and revoke the previous UK regulatory regime (The Transfrontier Shipment of Radioactive Waste Regulations 1993) and some transfers of radioactive waste across international boundaries which were previously regulated are now exempted. TFSRWR 2008 do not apply to the shipment of naturally occurring radioactive material (NORM) or the shipment of disused sources to a supplier or manufacturer of radioactive sources or to a recognised installation. For the purposes of the regulations a disused source means a sealed source which is no longer used or intended to be used for the practice for which authorisation was granted and a recognised installation means a facility located in the territory of the country authorised by the competent authorities of that country for the long-term storage or disposal of sealed sources or an installation authorised for the interim storage of sealed sources.

Dangerous Substances in Harbour Areas Regulations 1987

16. The carriage, loading, unloading and storage of all classes of dangerous substances in port areas are controlled under the Dangerous Substances in Harbour Areas Regulations 1987 (and amendments) and the Waste Management Licensing Regulations 1994.

Water Resources Act 1991 and Water Environment and Water Services (Scotland) Act 2003

17. Underpinning these instructions, it is an offence in England and Wales under the Water Resources Act 1991 to cause or knowingly permit any poisonous noxious or polluting matter to enter any "controlled" waters. In Scotland, the Water Environment and Water Services (Scotland) Act 2003 (WEWS), introduces regulatory controls over activities in order to protect and improve Scotland's water environment. It is an offence for a person to carry on, or cause or permit others to carry on, any controlled activity unless authorised by the Controlled Activity Regulations 2005 (as amended). Controlled waters extend to three miles from a defined baseline in England and Wales, as detailed in the Water Resources Act 1991. Coastal waters extend to three miles from a defined baseline in Scotland, as detailed in the WEWS. Other named activities under Crown control are outlined in the Continental Shelf Act 1964.

Health and Safety at Work etc Act 1974

18. Where installations, pipelines and/or waste are brought onshore for disposal, the operations will be subject to the provisions of the Health and Safety

at Work etc Act 1974 and appropriate regulations made under that Act. Further details can be obtained from the Health and Safety Executive (HSE).

19. HSE's role in decommissioning stems from the Offshore Safety Act 1992 which extends the application of Part I of the Health and Safety at Work etc Act 1974 to include offshore health and safety. It also allows offshore regulations to be made. Offshore regulations include specific requirements to secure the safe decommissioning and dismantlement of offshore installations and pipelines.

20. The Offshore Installations (Safety Case) Regulations 2005 (OSCR2005) came into force in April 2006, replacing the 1992 Safety Case Regulations. The new regulations require acceptance by HSE of a safety case for the dismantlement of a fixed installation. OSCR2005 are aimed at simplifying procedures as well as bringing OSCR more in line with other supporting offshore legislation. The new regulations can be found on the OPSI website at: http://www.opsi.gov.uk/si/si2005/20053117.htm

21. OSCR2005 requires a safety case to be submitted at least 3 months before the commencement of dismantling. In accepting a safety case under OSCR2005, HSE will wish to be satisfied that there is an effective safety management system (SMS) in place. The SMS should ensure that hazards with potential to cause a major accident are identified, that risks are adequately controlled and that the organisational arrangements in place will enable the duty holder to comply with relevant statutory provisions. The rigorousness of the SMS will be especially significant during decommissioning in order to cater for factors such as reduced personnel on board or contractor personnel new to the installation.

22. A range of other statutory health and safety provisions will apply during decommissioning, including regulation 10 of the Offshore Installations and Wells (Design and Construction, etc) Regulations 1996 which requires the decommissioning and dismantlement of an installation to be done safely so as to maintain its integrity during work activities.

23. The Pipelines Safety Regulations 1996 contain requirements that pipelines are decommissioned safely either by dismantlement and removal or by being left in a safe condition, and for notification of decommissioning works at least 3 months prior to commencement.

24. Inspectors from HSE's Hazardous Installations Directorate (Offshore Division) enforce offshore health and safety legislation. Pipelines safety legislation is enforced by HSE's Hazardous Installations Directorate (Specialised Industries Division). Application of the Health and Safety at Work etc Act 1974, and the regulations made under the Act, to any activities associated with decommissioning which are carried out onshore would most likely be dealt with by inspectors from HSE's Field Operations Division.

25. All works at a well are subject to the general requirements of the Health and Safety at Work Act etc 1974. In addition, there are specific regulatory requirements which apply to wells and well integrity. Wells connected to an

installation form part of that installation, and the content of the safety case must include particulars of the plant and arrangements for the control of operations on a well, including control of pressure and the prevention of the release of hazardous substances. Operations to re-enter and abandon wells using a mobile installation or vessel must be notified to HSE 21 days in advance. Duties set out in the Offshore Installations and Wells (Design and Construction etc) Regulations 1996 also cover the abandonment of wells. These require that wells are suspended and abandoned in a way that ensures there can be no unplanned escape of fluids from a well and that the risks to the health and safety of persons from the well, anything in it, or the strata to which it is connected, are as low as reasonably practicable.

Export Controls

26. The export of oil and gas installations for re-use outside of the UKCS may be subject to United Kingdom export controls. The Export Control Directorate of the Department for Business, Innovation and Skills (BIS) is the competent authority in this matter.

27. An export licence is unlikely to be required unless the goods are listed in Schedule 1 to the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) Order 2003 (EGTTPTA(C)O 2003, as amended: Part I (UK Military List) and Part II (UK Explosive – Related List) or there are any goods on the platform that could be considered to be 'dual-use' as defined in Schedule 2 to the 2003 Order (UK Dual-Use List) or in Council Regulation (EC) No. 1334/2000, as amended (EU Dual-Use List).

28. A number of Open General Export Licences (OGELs) are also issued and may be applicable as they cover various goods and destinations. OGELs are valid for any exporter to use providing they can satisfy the conditions and restrictions as specified on each licence.

29. BIS Export Control Directorate website http://www.bis.gov.uk/exportcontrol provides information relating to the lists of items considered to be subject to control (dual-use and military) and other general information on export controls including copies of all current Open General Export Licences.

SUMMARY OF MAIN ACTIVITIES REQUIRING APPROVAL:

ACTIVITY	AUTHORITY	PERMIT/CONSENT	REMARKS
Cessation of Production	DECC		Handled through Field Reports and separate COP Document
Venting/Flaring	DECC	Venting/Flaring consent under the Energy Act 1976	
Safety case	HSE	Acceptance under the Offshore Installations (Safety Case) Regulations 2005	OSCR2005 came into force in April 2006
Well abandonment	DECC, HSE	PON5	See DECC's Oil & Gas Website
Cleaning, discharges, emissions	DECC, EA/SEPA (depending on location)	PON15D, PON15C and/or PON15E (Chemicals) Permit under the OPPC Regs 2005 (Oil) Note:decommissioning activity may be covered by existing operational permits	See DECC's Oil & Gas Website
Oil Spill Planning	DECC	Oil Pollution Emergency Plan required under Merchant Shipping (Oil Pollution Preparedness, Response and Cooperation Convention) Regulations 1998	Decommissioning may be incorporated into existing field OPEP
Explosives use	DECC	Assessment under Habitats Regulations (as amended) 2001	Agree with DECC and apply JNCC Guidelines

ACTIVITY	AUTHORITY	CONSENT/PERMIT	REMARKS
Seabed deposits	DECC, DEFRA, Devolved Authorities (depending on location)	Licence under FEPA 1985 DEPCON under Pipeline Works Authorisation	Deposits on decommissioned pipelines subject to FEPA. Deposits on pipelines held under IPR likely to be via DEPCON.
Waste Handling	EA/SEPA	Duty of care under Environmental Protection Act 1990 Licence under Waste Management Licensing Regulations 1994/Environmental Permit issued under Environmental Permitting (England and Wales) Regulations 2007 Notification under Special Waste Regulations 1996 and Special Waste Amendment (Scotland) Regulations 2004 / Hazardous Waste (England and Wales) Regulations 2005 Authorisation under Radioactive Substances Act 1993	Proposals should be discussed at an early stage with the relevant Agency

ACTIVITY	AUTHORITY	CONSENT/PERMIT	REMARKS
Waste Shipment (into and out of the EU)	EA/SEPA	Authorisation under the Transfrontier Shipment of Waste Regulations 2007	Authorisation also required from the receiving country. Authorisation also for any waste being returned to the country of origin.
Marine activities	DECC,DfT,Hydrog,HSE, MCA, SFF, NFFO	Various notifications required for diving activities, vessel use, towing activities etc	Discuss with relevant Departments, Agencies or Bodies
Safety Zones	HSE, Hydrog, DfT	Notification upon removal of facilities	Under Petroleum Act 1987, SZ will automatically cease if installation no longer projects above the surface of the sea. SZ's made by statutory order will remain unless removed by order.
Equipment and materials brought ashore	HM Revenue & Customs	Duties and VAT may apply to certain items	Discuss with HMRC

ACTIVITY	AUTHORITY	CONSENT/PERMIT	REMARKS
Export of installations and equipment	BIS	An export licence may be required in certain circumstances under the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) Order 2003	Consult BIS Export Control Directorate
Export and import	DEFRA	A certificate may be required under the Convention on International Trade in Endangered Species (CITES)	If the coral, *Lophelia pertusa*, is present on an installation located outside of territorial waters that is being transported to the UK or elsewhere, a CITES certificate will be required from Defra.

ANNEX E

ROLE OF OTHER GOVERNMENT DEPARTMENTS

Department for Environment, Food and Rural Affairs (Defra)

1. Defra is responsible for co-ordinating Government policy on the marine environment. It therefore has an interest in all general questions which arise in respect of offshore oil and gas activity and the marine environment. Defra is also responsible for Government policy on waste and sponsors the Environment Agency. Defra is specifically responsible for the development and implementation of domestic and international policies to protect fisheries and the marine environment from the deposit of waste and other materials at sea. Defra leads for the UK on the global London Convention 1972 which deals with dumping at sea and also leads for the UK on the OSPAR Convention for the protection of the North East Atlantic which not only covers dumping issues but also the prevention and elimination of pollution from offshore installations. An extensive programme of aquatic environmental monitoring is carried out on behalf of the Department.

2. Defra is responsible for the Food and Environment Protection Act (Part II) 1985 (FEPA) as amended. Part II of the Act covers the deposit of substances or articles in the sea or under the seabed within UK waters or UK controlled waters. Anyone wishing to undertake activities involving the deposit of materials at sea, in waters adjacent to England and Wales, is advised to check the following web page http://www.marinemanagement.org.uk/environment/index.htm to confirm if a licence is required or if the activities are exempt under the Deposits in the Sea (Exemptions) Order 1985 and covered by legislation. In assessing whether a licence can be issued under FEPA, Defra will consider whether the deposits will adversely affect the marine environment, the living resources which it supports or human health. Regard is also taken of operations which may interfere with legitimate uses of the sea and to the practical availability of alternative methods of dealing with any waste material it is proposed to dispose of at sea.

The Scottish Government – Marine Scotland (SG-MS)

3. SG-MS, which has a similar role to Defra, is responsible, as licensing authority in Scotland, for issuing licences under Part II of the Food and Environment Protection Act 1985 as amended, for all disposal activities, except after 1 July 1999, those relating to oil and gas exploration and exploitation and operations falling within the subject matter of Part VI of the Merchant Shipping Act 1995. Anyone wishing to undertake activities involving the deposits of substances or articles at sea in waters adjacent to Scotland is advised to check with SG-MS which undertakes the licensing function on behalf of the Scottish Ministers. SG-MS will confirm if a licence is required or if the activities are exempt under the Deposits in the Sea (Exemptions) Order 1985 (as amended).

4. Section D2 of Schedule 5 to the Scotland Act 1998 reserves oil and gas exploration and exploitation to Westminster including, in this regard, the subject

matter of Part II of FEPA, but only in relation to activities outside controlled waters (within the meaning of section 30A(1) of the Control of Pollution Act 1974). Ministers have agreed that the licensing authority for such activities will be DECC.

5. SG-MS, also conducts an extensive marine environment monitoring programme in waters adjacent to Scotland.

Department for Transport (DfT)

6. The Ports Division of DfT is concerned with ensuring safety of navigation and DECC on their behalf regulates the placing of offshore installations and pipelines to this end. Consent is required for placing on the UK Continental Shelf installations which may obstruct or endanger navigation.

Maritime and Coastguard Agency (MCA)

7. The MCA is responsible for implementing the Government's strategy for marine safety and the prevention of pollution from ships, as developed by DfT's Shipping and Ports Directorate in consultation with the Agency. The overall aim of the MCA is to develop, promote and enforce high standards of marine safety and to minimise the risk of pollution of the marine environment from ships. Prior to granting consent for the placing of offshore installations and other works in tidal waters, DfT's Ports Division consult the MCA for their views on the impact of such activities on navigational safety.

8. The Agency is also responsible for the management of the Government's Civil Hydrographic Programme and works closely with the Royal Navy, the Ministry of Defence and the UK Hydrographic Office.

Department of the Environment for Northern Ireland (DOE NI)

9. The Industrial Pollution and Radiochemical Inspectorate (IPRI) is part of the Northern Ireland Environment Agency, and is responsible for the enforcement of the Industrial Pollution Control (NI) Order 1997 the Pollution Prevention and Control Regulations (NI) 2003 and the Radioactive Substances Act 1993.

10. DOE NI is also responsible for co-ordinating policy within Northern Ireland in respect of pollution of the marine environment and complying with the requirements of the OSPAR Convention and other international obligations.

The Joint Nature Conservation Committee (JNCC), Natural England (NE), Scottish Natural Heritage (SNH), the Countryside Council for Wales (CCW) and the Council for Nature Conservation and the Countryside (CNCC)

11. The JNCC has expertise for providing nature conservation advice on matters relating to the offshore oil and gas industry and is the primary point of contact for nature conservation advice on decommissioning programmes. NE, SNH, CCW and CNCC are responsible for providing similar advice on

decommissioning programmes within 12 miles of shore or on projects that have the potential to impact their respective coastal areas.

Scottish Environment Protection Agency (SEPA)

12. SEPA is responsible for the enforcement of pollution legislation in Scotland. This legislation regulates: discharges from prescribed processes under Part I of the Environment Protection Act 1990 (EPA 1990), to be progressively replaced by the requirements of the Pollution Prevention and Control Act 1999 (PPC 1999); the regulation of waste management regime under Part II of EPA 1990 and the waste management activities prescribed under PPC 1999; the keeping and use of radioactive materials and the disposal and accumulation of radioactive waste under the Radioactive Substances Act 1993; and the licensing of a controlled activity in accordance with the Water Environment (Controlled Activities) (Scotland) Regulations 2005 (to protect the water environment). The Radioactive Substances Act 1993 applies to installations operating in Scottish waters and the associated infrastructure. SEPA was created by the Environment Act 1995.

The Environment Agency (EA)

13. The EA regulates a range of activities including those carried out under the Environment Permitting (England and Wales) Regulations 2007 which covers facilities previously regulated under the Pollution Prevention and Control Regulations and the Waste Management Licensing Regulations 1994. Amongst many other things, the EA is also responsible for water protection; managing hazardous wastes; the export of wastes and the use, accumulation and disposal of radioactive materials.

Health and Safety Executive (HSE)

14. HSE's role in decommissioning stems from the Offshore Safety Act 1992 which extends the application of Part I of the Health and Safety at Work etc Act 1974 to include offshore health and safety. It also allows offshore regulations to be made. Offshore regulations include specific requirements to secure the safe dismantling, removal and disposal of offshore installations and pipelines. *HSE's role in the decommissioning process and the key health and safety legislation applying is described in Annex D to this guidance*. Health and safety legislation will continue to apply to any installations left in situ after decommissioning. In particular, duty holders will need to ensure the integrity of the installation and the safety of personnel working on it. It should be noted that the duty holder under offshore health and safety legislation may not be the same as those parties with the duty to carry out a decommissioning programme under the Petroleum Act 1998.

15. The Pipelines Safety Regulations 1996 contains requirements for the safe decommissioning of, and notification to, HSE at least 3 months prior to commencement of pipeline decommissioning works.

16. Activities associated with decommissioning which are carried out onshore will be subject to the provisions of the Health and Safety at Work etc Act 1974 and appropriate regulations made under that Act.

Ministry of Defence (MOD)

17. The MOD's UK Hydrographic Office is responsible for maintaining Admiralty Charts on which installations and pipelines are marked. The charts are supported by a range of Notices to Mariners, in both written and other media. Consents from DfT will specify that Notices are issued at the Operator's expense where activity at an installation has implications for navigation around it.

18. The MOD's Directorate of Safety, Environment and Fire Policy is concerned with the impact of decommissioning on defence operations.

HM Treasury/HM Revenue & Customs

19. HM Treasury and HM Revenue & Customs have an interest in the efficient use of resources in decommissioning and in the impact and yield of North Sea taxation.

The Crown Estate

20. The Crown Estate Commissioners have statutory responsibility for management of the Crown's proprietary interests offshore; these include nearly all of the UK seabed to the territorial limit (12 miles) and exploitation rights on the Continental Shelf (excluding hydrocarbons) under the Continental Shelf Act 1964.

21. The rights to oil and gas underneath the territorial sea and the UK Continental Shelf are vested in the Crown under the Petroleum Act 1998 and are managed by DECC. However, The Crown Estate's consent as landowner is required for all oil and gas pipelines that cross the seabed within 12 nautical miles of the UK coastline. This includes the granting of a lease under which a rental payment will apply based on the size of the pipeline. Notice terminating the rent may be given by the operating company upon completion of decommissioning works.

ANNEX F

DECOMMISSIONING LIABILITIES

Introduction

1. This annex sets out DECC's policy for ensuring that the costs associated with decommissioning offshore oil and gas installations and pipelines on the UK Continental Shelf (UKCS) are met by the companies which own them, or have had an interest in them or in the relevant licences since the serving of the first notice for the facilities.

Guiding Principles

2. In recent years there has been significant trading of UKCS oil and gas assets from large companies to smaller ones. Ministers welcome this development as they have agreed that entrepreneurial activity on the UKCS should be encouraged and that a free trade in mature offshore oil and gas assets and reduced cost burden can help to extend field life and maximise economic recovery. However, at the same time Government has a responsibility to ensure that the taxpayer is not exposed to the risk of default in meeting the costs associated with decommissioning, which could be substantial. The two aims must be carefully balanced.

3. The risk to the Government is that, in relation to any particular field, the participating companies at the time of decommissioning will not have sufficient assets to pay for the work. Or that, although such companies have access to sufficient assets, those assets are outside UK jurisdiction and the powers of enforcement available under the Petroleum Act 1998 (the Act) may not be exercisable so as to ensure that the companies comply with their obligations. In such cases the UK's international obligations might mean that the Government would consider itself obliged to arrange for decommissioning and the cost may then fall on the taxpayer.

4. The mechanism by which the Government balances taxpayer protection and increasing UKCS productivity through licence trading is by the serving and withdrawal of notices under sections 29 and 31(5) of the Act.

Legislative Background

5. Notices under section 29 of the Act may be served on those persons with any interest of a kind set out in section 30(1) of the Act in respect of each individual offshore installation on the UKCS, and in respect of section 30(2) of the Act in respect of each individual offshore pipeline. These section 29 notices require the recipient to submit a decommissioning programme at such time as the Secretary of State may call for it.

6. Withdrawal of a section 29 notice may be granted under section 31(5) of the Act. It should be noted that such a withdrawal is granted at the discretion of the Secretary of State. The circumstances under which withdrawal is considered are detailed below.

7. Further information regarding the serving of notices setting a decommissioning obligation is available in *section 3* of this guidance.

Calculation of Risk and Consideration of Section 29 Notice Release

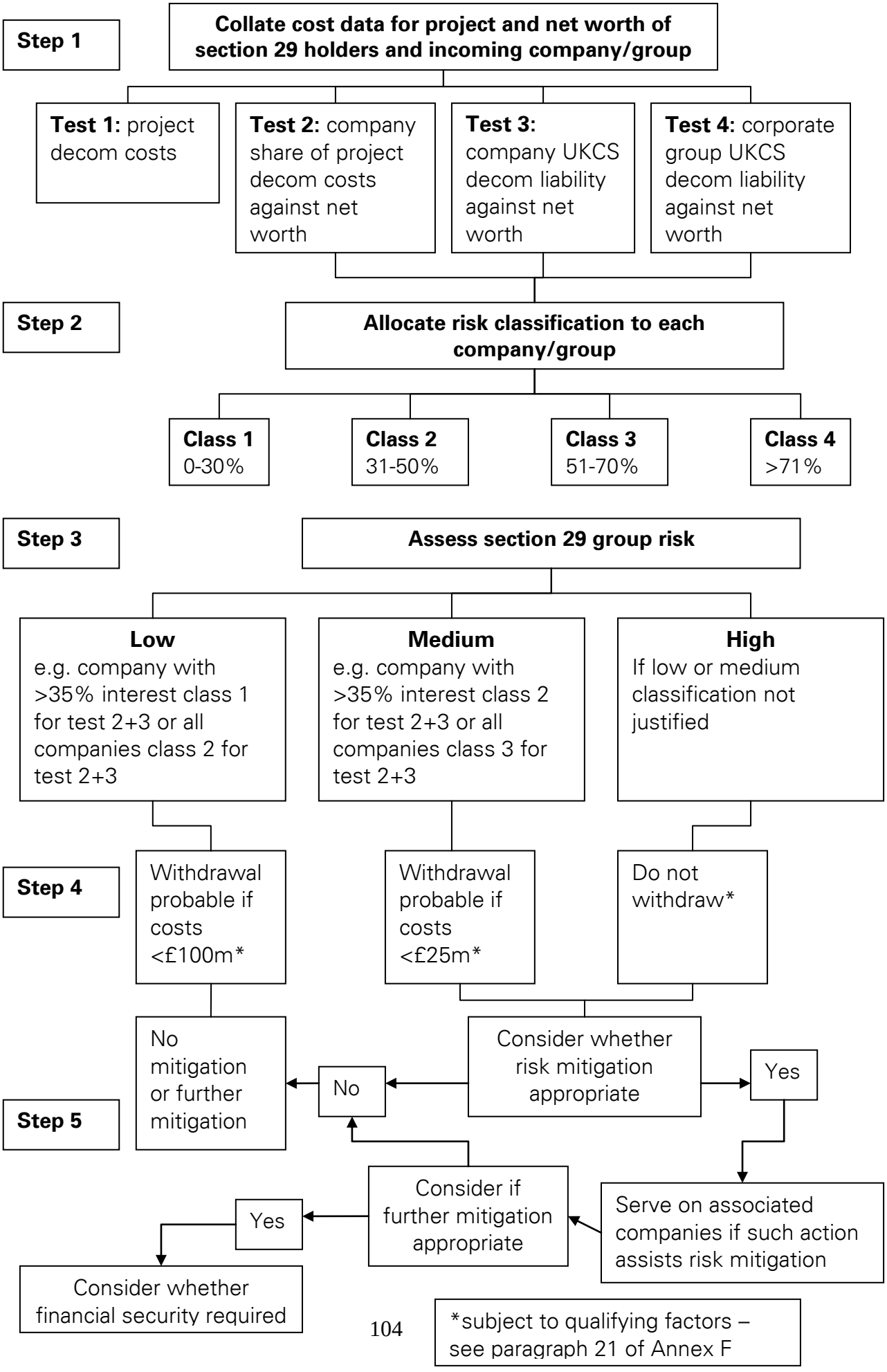
8. When the Licensing Section of DECC's Licensing Exploration and Development Unit agree to an assignment of interests in a licence affecting an approved field, we will serve notices under section 29 of the Act on the buyer (if they do not already have such a notice). We then consider whether the Secretary of State should exercise his discretion under section 31(5), and withdraw the section 29 notice(s) from the selling party.

9. The following assessment is used to calculate the risk associated with the group of section 29 notice holders and whether or not it would be appropriate to withdraw the notice from a selling company. It is also used to review the risk of all section 29 groups on a periodic basis (every 3 to 4 months). It is appropriate that there is an up to date assessment of the overall risk to the taxpayer. Periodic review ensures that updated company accounts and wider changes in a company's and their group's portfolio of assets are taken into account and where necessary mitigation measures instigated. During these reviews particular attention is also given to exited companies that have sold their interest in an asset and not had their section 29 withdrawn to determine if the decision remains appropriate. DECC aims to withdraw as many notices as possible in light of the level of risk.

10. Where a company has requested withdrawal of their section 29 notice following the transfer of their interests in a field, they will be informed whether the Secretary of State will exercise his discretion to withdraw. Where the notice has not been withdrawn at that stage but a periodic review of the risk assessment indicates withdrawal is now appropriate, the relevant companies will be informed. In addition, DECC is always willing to take account of new information or material changes that impact the risk assessment for specific section 29 groups. Companies should contact the Offshore Decommissioning Unit to discuss any relevant updates to their cases. The assessment process is treated as confidential and will only be discussed with the companies concerned.

11. The assessment process is a relatively simple instrument used to assess the risk of all section 29 groups and the mechanistic tests are not the end of the process. Where necessary DECC will review the company's finances in more detail and take account of the prospects for revenues from the relevant fields. In addition, where factors, such as a sudden change in company status, have a material effect on the risk, a detailed review of all the relevant cases will be undertaken. This may alter the initial risk assessment and the resultant need for mitigation measures.

12. The following flowchart outlines the assessment process prior to a more detailed explanation of the steps involved. Examples of how the assessment is used are given at the end of this Annex.


Step 1
Collate cost data for project and net worth of section 29 holders and incoming company/group
Test 1: project decom costs
Test 2: company share of project decom costs against net worth
Test 3: company UKCS decom liability against net worth
Test 4: corporate group UKCS decom liability against net worth
Step 2
Allocate risk classification to each company/group
Class 1 0-30%
Class 2 31-50%
Class 3 51-70%
Class 4 >71%
Step 3
Assess section 29 group risk
Low
e.g. company with >35% interest class 1 for test 2+3 or all companies class 2 for test 2+3
Medium
e.g. company with >35% interest class 2 for test 2+3 or all companies class 3 for test 2+3
High
If low or medium classification not justified
Step 4
Withdrawal probable if costs <£100m*
Withdrawal probable if costs <£25m*
Do not withdraw*
Step 5
No mitigation or further mitigation
No
Consider whether risk mitigation appropriate
Yes
Consider if further mitigation appropriate
Yes
Serve on associated companies if such action assists risk mitigation
Consider whether financial security required
*subject to qualifying factors – see paragraph 21 of Annex F

Step 1 - Tests

13. Collate data on: the costs of decommissioning the project; each company's share of the project decommissioning costs and their total UKCS liability; the company's corporate group UKCS liability, taking account of the interests held by all the group's subsidiary companies; and the net worth (shareholder funds/equity minus intangibles) of both the company and their corporate group. Run the following four tests for all current notice holders and any incoming company.

Test 1: Note project decommissioning costs

Test 2: Compare company share of project decommissioning costs against its net worth

Test 3: Compare company share of UKCS decommissioning costs against its net worth

Test 4: Compare corporate group's share of UKCS decommissioning costs against the group net worth

14. Good quality estimates of decommissioning costs are important when running the above tests. DECC will consider any estimates available from the company concerned and compare these with estimates it holds which were provided by independent third party consultants. We are likely to estimate the costs for large concrete structures on a "left in place" basis as OSPAR derogations have already been given for such structures. The costs for large steel installations which are candidates for OSPAR derogation will be estimated in the light of the timescale, the possibilities of technical advances and the more limited experience of derogation. We are willing to discuss our cost estimates for individual facilities with the owners and if we consider it appropriate amend the costs used in the risk assessment. We do not release detailed figures publicly. Guidance on estimating decommissioning costs has been developed through the Pilot Brownfields Initiative. This is available from the Oil & Gas UK website (www.oilandgasuk.co.uk). Net worth data is taken from the company's published balance sheet.

Step 2 – Company Risk Classification

15. Using the following table, allocate a risk classification to each company for tests 2 and 3 and a classification for each corporate group for test 4.

Class 1	**Class 2**	**Class 3**	**Class 4**
0-30%	31-50%	51-70%	71%+
Company can easily afford costs	Funds are adequate to meet costs	Company should be able to meet costs but may have some difficulty	Company would have considerable difficulty meeting costs

16. The primary financial measure used for assessing a company's capacity to meet its share of the decommissioning costs associated with a licence interest is a comparison of the liability against net worth. The question is, if the decommissioning liability should crystallise today could the company, or any corporate group to which it belongs, meet its share of those costs? If the expected decommissioning costs associated with the licence a company is seeking to acquire ranges between 1% - 50% of the net worth of the company or of the corporate group to which it belongs, we would consider that there are adequate resources to meet those costs when they crystallise. If the potential liability ranges between 51% - 70% of net worth we would consider that the company/group should be able to meet the costs but may have some difficulty in doing so. If the liability exceeds 70% of shareholders funds we would consider that the company/group would have considerable difficulty in meeting the decommissioning. If the initial assessment outlined above indicates the company may have difficulty meeting its obligations, we review the company's/group's accounts, taking note of significant cash balances, liquidity, gearing, capacity to borrow, existing but under-utilised lines of credit, shareholder's guarantees, undertakings etc. We may look at prospects for future revenues from the relevant fields and will always discuss the assessment with the company if it wishes to do so. We will not disclose our assessment outside DECC or the company concerned without its permission.

Step 3 – Section 29 Group Risk Classification

17. Once a classification has been assigned to each current section 29 notice holder and any incoming party it is possible to assess the risk of the group of notice-holders as a whole, i.e. the section 29 group risk. This should be calculated both with and without the presence of any outgoing party to consider the impact of withdrawing their notice.

18. Whether a section 29 group is low, medium or high risk will depend on the balance of class 1, 2 and 3 companies. The classification assumes companies are registered in the UK. If a company is not UK registered it may be discounted when determining the group classification. For example:

- Low risk section 29 groups: If there is a company with a relatively high percentage interest in the field, say above 35%, that is class 1 for test 2 and 3, as they can easily afford both their share of the decommissioning costs of the project and their wider UKCS costs, we are likely to conclude that the section 29 group is low risk. Alternatively if all companies involved are class 2 for tests 2 and 3, as their funds are still considered adequate the section 29 group could be given a low risk allocation.

- Medium risk section 29 groups: Similar to low risk, if there is a company with a relatively high percentage interest that is class 2 for test 2 and 3 or if all companies are class 3 for tests 2 and 3 we are likely to conclude that the section 29 group is medium risk. Class 2 companies have adequate resources to meet the costs. Although class 3 companies should also

have adequate funds they may have some difficultly. It is therefore only possible to allocate the section 29 group a medium risk based on class 3 companies as on balance, if all companies are at least of this rating, overall there should be sufficient assets within the section 29 group.

- High risk section 29 groups: If a low or medium risk classification is not justified, by default the section 29 group will be high risk.

19. In addition to the above examples the strength of the corporate groups of the companies will be considered, test 4. The involvement of one or more corporate group with significant resources may be sufficient to allocate a lower risk classification to the section 29 group.

Step 4: Consider Whether to Withdraw Notice

20. Once a section 29 group risk classification has been calculated, the following guidelines are used to indicate whether to withdraw a section 29 notice from an exiting party. These guidelines are indicative and the Secretary of State reserves the discretionary nature of his withdrawal powers. Where DECC judges that the remaining group of section 29 notice holders would be weakened to an unacceptable extent by the departure of a company from it, the Secretary of State will not exercise his discretion to withdraw the notice given under section 29 of the Act from the selling party.

Section 29 Group Risk	**Withdraw?**	**Notes**
High	Do not withdraw	
Medium	Withdrawal probable if costs are ≤ £25m	If all current Section 29 holders are class 1 for test 2, the cost threshold may be overruled. The threshold is only indicative. Experience suggests that estimates above this level can be unreliable. There may be considerable uncertainties due to the type of structure and associated decommissioning complexities.
Low	Withdrawal probable if costs are ≤ £100m	

21. Qualifying factors:

- If there is an exited company (sold interest and section 29 not withdrawn) in the section 29 group further withdrawals are not considered unless a

subsequent transfer is intra-group or the exited company is a result of the following class 2 for test 2 consideration.

- Do not withdraw unless the purchasing company is at least class 2 for test 2. Basically, the incoming company should have adequate funds to meet their share of the decommissioning costs prior to withdrawing the notice on the selling company. This addresses concerns raised by industry during consultation and in representations on specific cases that the Secretary of State should not depend solely on the joint and several nature of the liability but take account of an individual company's ability to fund their share of costs.

- Do not withdraw if only one party left in the section 29 group unless they are class 1 for test 2 and test 3. This takes account of the inherent risk of one party holding 100% of the interests in a project.

- Relevant security agreements will be taken into account. Where a security agreement of the type described in Annex G has been established we are likely to look favourably on the release of a departing licensee. However, this will only be possible if at least 2 other section 29 holders remain. If the transfer will result in 100% ownership the last party to sell will normally be required to 'police' the agreement and their section 29 notice will not be withdrawn.

- We will also take account of any knowledge that the remaining companies wish to sell their interest in the field or may be sold by their corporate parents.

Step 5: Mitigation Measures

22. If the assessment indicates a medium or high risk, we will consider whether the company has a parent or other associate which is UK registered and has sufficient assets to cover decommissioning costs at the appropriate time. We may apply section 30(1)(e) of the Act in respect of installations or section 30(2)(c) in respect of a pipeline and serve a notice under section 29 on the relevant parent or associated party.

23. If the risks to the taxpayer are assessed as unacceptable, section 38(4) of the Act, as amended by the Energy Act 2008, enables the Secretary of State to require a company to provide security if they have been served with a notice under section 29, or have a duty to carry out an approved decommissioning programme. We do not expect to initiate section 38(4) if other mitigation measures, such as serving on associated parties, can be used to reduce the risk. Prior to issuing a notice requiring the provision of security the Secretary of State would first give the company an opportunity to make representations regarding whether they should receive such a notice and consult the Treasury. If such a notice is issued the Secretary of State would respect any company concerns regarding confidentiality. The provisions would only be discussed with the companies directly involved.

24. When considering the risks, the Secretary of State will take account of any relevant security agreements. We are not likely to issue a notice under section 38(4) requiring security if there is a satisfactory security agreement in place.

25. A company which fails to comply with a notice under section 38(4) will be guilty of an offence unless they can prove that they exercised due diligence to avoid the failure. In deciding the best way forward in such a situation the Secretary of State will consider the reasons for the default and continue to look for mechanisms to protect the taxpayer. Where security has been provided in accordance with a notice and the security provider is down rated during the period covered by the security, the Secretary of State will discuss any necessary action with the company. The required action will depend on the new rating and continued standing of the security provider.

26. Details of the relevant 2008 Act provisions and further information regarding security provisions are given in *section 3 and Annex G,* respectively, of this guidance.

New Field Developments

27. New fields may be developed by companies with limited financial resources and DECC may be concerned about their ability to fund decommissioning, especially if something should go wrong in the early phase of the development. When a developer puts forward proposals for a new field we will assess the financial strength of the companies involved, using the stepped process outlined above and taking account of any additional information relevant to the case. Each assessment is confidential but DECC will always be willing to discuss it with the company and would take into account any proposals to establish securities.

28. At this stage we are primarily considering the risk of premature decommissioning resulting from disappointments in the performance of the reservoir or installation. As with existing fields, if we feel that the field is high risk a notice under section 29 may be served on associated parties and, if the risk remains high, we will consider whether to require the provision of security.

29. Where security has been provided, we will reassess the position after say, 6 months of production to decide whether to suspend the security requirement as satisfactory field performance and assurance of future revenues has been demonstrated. In such cases, we would expect to re-instate the security closer to the end of field life as the field reservoir depletes. The net value of the remaining recoverable reserves and the financial position will be reviewed and discussed with the company.

Examples of Risk Assessment Process

Example 1

Decommissioning Costs £10m

Company	% interest	Share of Decom Costs	Net Worth	Test 2	Company UKCS liability	Test 3	Group Net Worth	Group UKCS liability	Test 4
X	60	£6m	£100m	6%(class 1)	£30m	30%(class1)	£800m	£80m	10%(class 1)
Y	20	£2m	£50m	4%(class 1)	£30m	60%(class3)	£90m	£50m	56%(class 3)
Z	20	£2m	£20m	10%(class 1)	£15m	75%(class4)	£25m	£20m	80%(class 4)

Assessment:

- Company X has a significant percentage interest in the field and can easily afford both its share of the decommissioning costs (tests 2) and its UKCS liability (test 3). Company X is also part of a group with significant resources (class 1 for test 4).
- Companies Y and Z can easily afford their share of the decommissioning costs (test 2) but may have difficulty meeting both their UKCS liability (test 3) and their groups UKCS liability (test 4).
- Decommissioning costs for this project are relatively low.
- Based on the strength of company X, this is a low risk case and risk mitigate is not necessary.

Action 1: Company Y sells to Company A

Company	% interest	Share of Decom Costs	Net Worth	Test 2	Company UKCS liability	Test 3	Group Net Worth	Group UKCS liability	Test 4
X	60	£6m	£100m	6%(class 1)	£30m	30%(class1)	£800m	£80m	10%(class 1)
A	20	£2m	£15m	13%(class 1)	£10m	67%(class3)	£40m	£15m	37%(class 2)
Z	20	£2m	£20m	10%(class 1)	£15m	75%(class4)	£25m	£20m	80%(class 4)
Y	Withdraw	N/A	£50m	N/A	£28m	56%(class3)	£90m	£48m	53%(class 3)

Assessment:

- The group remains low risk due to inclusion of company X.
- Withdrawal is therefore probable as costs are less than £100m.
- As incoming company (A) can afford its share of the project decommissioning costs (test 2) – withdraw notice from company Y.

Action 2: Company Z sells to Company B

Company	% interest	Share of Decom Costs	Net Worth	Test 2	Company UKCS liability	Test 3	Group Net Worth	Group UKCS liability	Test 4
X	60	£6m	£100m	6%(class 1)	£30m	30%(class1)	£800m	£80m	10%(class 1)
A	20	£2m	£15m	13%(class 1)	£10m	67%(class3)	£40m	£15m	37%(class 2)
B	20	£2m	£3m	67%(class 3)	£2.5m	83%(class4)	£10m	£4m	40%(class 2)
Z	Exited	N/A	£20m	N/A	£13m	65%(class3)	£25m	£18m	72%(class 4)

Assessment:

- The group remains low risk due to the inclusion of company X.
- As before withdrawal is probable as costs are less than £100m.
- However, withdrawal is not considered unless the incoming company has adequate funds to meet its share of the decommissioning costs. As company B may have difficulty meeting its costs (test 2) – do not withdraw notice from company Z.

Action 3: Company A sells to Company C

Company	% interest	Share of Decom Costs	Net Worth	Test 2	Company UKCS liability	Test 3	Group Net Worth	Group UKCS liability	Test 4
X	60	£6m	£100m	6%(class 1)	£30m	30%(class1)	£800m	£80m	10%(class 1)
C	20	£2m	£20m	10%(class 1)	£5m	25%(class1)	£50m	£10m	20%(class 1)
B	20	£2m	£3m	67%(class 3)	£2.5m	83%(class4)	£10m	£4m	40%(class 2)
Z	Exited	N/A	£20m	N/A	£13m	65%(class3)	£25m	£18m	72%(class 4)
A	Withdraw	N/A	£15m	N/A	£8m	53%(class3)	£40m	£13m	32%(class 2)

Assessment:

- The group remains low risk due to the inclusion of company X.
- If there is an exited company further withdrawals are only considered if a subsequent transfer is intra-group or, as is the case here, the exited company (Z) was retained because they sold to a company (B) that may have difficulty meeting its share of the project decommissioning costs.
- As the incoming company (C) in this case can afford its share of the project decommissioning costs (test 2) – withdraw notice from company A.

Action 4: Company X sells to Company D

Company	% interest	Share of Decom Costs	Net Worth	Test 2	Company UKCS liability	Test 3	Group Net Worth	Group UKCS liability	Test 4
D	60	£6m	£50m	12%(class 1)	£38m	76%(class4)	£60m	£45m	75%(class 4)
C	20	£2m	£20m	10%(class 1)	£5m	25%(class1)	£50m	£10m	20%(class 1)
B	20	£2m	£3m	67%(class 3)	£2.5m	83%(class4)	£10m	£4m	40%(class 2)
Z	Exited	N/A	£20m	N/A	£13m	65%(class3)	£25m	£18m	72%(class 4)
X	Exited	N/A	£100m	N/A	£24m	24%(class1)	£800m	£74m	9%(class 1)

Assessment:

- If the notice is withdrawn from company X the section 29 group is no longer low risk.
- Company C is the only company that can easily afford both its share of the project decommissioning costs (test 2) and its UKCS liability (test 3). However, they only hold 20% interest in the field. In order to take comfort from the finances of one company they need to hold a substantial interest, at least over 35%. Given that the other companies may have difficulty meeting their UKCS liabilities, by default the section 29 group would be high risk, if notice withdrawn from company X, unless corporate groups registered in the UK bring sufficient strength to mitigate the risk (test 4).
- Given the relatively modest strength of the corporate groups in this case – do not withdraw notice from company X.

Example 2

Decommissioning Costs £50m

Company	% interest	Share of Decom Costs	Net Worth	Test 2	Company UKCS liability	Test 3	Group Net Worth	Group UKCS liability	Test 4
X	60	£30m	£250m	12%(class 1)	£60m	24%(class1)	£800m	£100m	12%(class 1)
Y	20	£10m	£150m	7%(class 1)	£30m	20%(class1)	£250m	£50m	20%(class 1)
Z	20	£10m	£80m	12%(class 1)	£15m	19%(class1)	£100m	£20m	20%(class 1)

Assessment:

- All companies can easily afford both their share of the decommissioning costs (test 2) and their UKCS liability (test 3). In addition they are all part of corporate groups that can easily afford their overall UKCS liability.
- This is a low risk case and risk mitigation is not necessary.

Action: Companies X and Y sell to Z

Company	% interest	Share of Decom Costs	Net Worth	Test 2	Company UKCS liability	Test 3	Group Net Worth	Group UKCS liability	Test 4
Z	100	£50m	£80m	62%(class 3)	£55m	69%(class3)	£100m	£60m	60%(class 3)
X	Exited	N/A	£250m	N/A	£30m	12%(class1)	£800m	£70m	9%(class 1)
Y	Exited	N/A	£150m	N/A	£20m	13%(class1)	£250m	£40m	16%(class 1)

Assessment:

- Due to the inherent risk of one party holding 100% of the interest, withdrawal of notices from exited companies is only considered if the remaining company can easily afford both its share of the decommissioning costs and its UKCS liability (class 1 for tests 2 and 3).
- As company Z is class 3 for tests 2, 3 and 4 - do not withdraw notices from companies X and Y.

Example 3

Decommissioning Costs £250m

Company	% interest	Share of Decom Costs	Net Worth	Test 2	Company UKCS liability	Test 3	Group Net Worth	Group UKCS liability	Test 4
X	60	£150m	£200m	75%(class 4)	£190m	95%(class4)	£250m	£190m	76%(class 4)
Y	40	£100m	£150m	67%(class 3)	£120m	80%(class4)	£170m	£130m	76%(class 4)

Assessment:

- Both companies are likely to have difficulty meeting their share of the decommissioning costs (test 2) and their UKCS liability (test 3).
- This is a high risk case and risk mitigation measures will be considered.
- The corporate groups of both companies are likely to have considerable difficulty meeting their liabilities (test 4) and the risk is therefore not adequately mitigated by serving on the associates.
- Given the high risk and high costs of this project security will be necessary. Prior to serving a notice requiring establishment of security the Treasury will be consulted and the company given an opportunity to make representations.

DECOMMISSIONING SECURITY AGREEMENTS TO WHICH THE SECRETARY OF STATE IS A PARTY

General Background

1. The Secretary of State is not usually a party to the industry's security agreements but the presence of an acceptable agreement may facilitate the withdrawal of a section 29 notice on a departed licensee. DECC has participated in the industry initiative to develop a standard template Decommissioning Security Agreement, (DSA). As far as possible DECC will accept the terms in the standard DSA but it contains options that licence groups will sometimes prefer to use between themselves when the Secretary of State is not a party. The template DSA and associated guidance are available from the Oil & Gas UK website .www.oilandgasuk.co.uk. Although DECC will also consider security agreements that do not utilise the DSA template they would need to meet the same minimum requirements. For simplicity the DSA is referred in this Annex.

2. The over-riding aim of a DSA is to ensure that guaranteed funds (which may include future revenues in appropriate cases) will be available to cover the decommissioning costs at all times. For example, if a company becomes insolvent before decommissioning, the security posted under the DSA would be triggered and held in trust. This security will be equal to the insolvent participant's share of the decommissioning costs reduced by an allowance for their share of any remaining oil and gas reserves and the operating expenditure that would be spent in recovering those reserves, in line with a formula contained in the DSA. This formula underpins the DSA and has to be recalculated regularly by an independent third party to ensure that the levels of security are realistic and up to date.

3. The Secretary of State for Energy and Climate Change may become a party to a DSA to facilitate withdrawal of a section 29 notice from a departing licensee, to ensure that changes to the agreement cannot be made without his written consent, and, in certain cases, to enable him to take action to resolve a default situation.

4. As DSAs are to be stand-alone documents, entirely separate from the JOA (or similar agreement), agreement to any licence assignment granted by DECC's Licensing Section does not imply consent to any change to the parties to the DSA. Such changes should be agreed separately, through the Offshore Decommissioning Unit, by written amendment to the DSA.

5. Cases where 100% ownership results following a licence transfer require a special approach. In cases where there are two or more remaining licensees each party effectively ensures that the other(s) adheres to the agreement (if they do not do this they may become liable for another participant's share, under the joint and several provisions of the Act). However, in cases, where following licence transfer one party will own 100% of the interests, DECC will require a departed licensee to 'police' the DSA. This party will usually be the last licensee to sell their interests, and to ensure they 'police' the agreement effectively their section 29 notice will not be withdrawn. In addition, if this scenario is not already incorporated, the format of the DSA will require amendment to reflect the differences arising from the situation.

6. Where the Secretary of State has concerns about the ability of a group of section 29 notice holders to fund the decommissioning of a project he can initiate section 38(4) of the Petroleum Act 1998 to require security (*see Annex F*). This would only be done if other mitigation measures had not adequately reduced the risk. When section 38(4) is used a DSA is not required. Although the Secretary of State may become a party to a DSA and take the presence of an acceptable agreement into account when considering whether to withdraw a section 29 notice and/or issue a notice under section 38(4), these are commercial agreements setting the security requirements between the companies. Where a section 38(4) notice is issued it will specify what security is required including the amount, the credit rating of security provider and the timing. The Secretary of State will be the beneficiary and establishment of a trust fund is not necessary. There will however be similarities with the Secretary of State's minimum requirements for a DSA and the types of security and risk factor discussed below will apply. DECC will discuss the situation with the company (which has a legal right to object) before issuing a notice under section 38(4).

Minimum Requirements for a DSA to which the Secretary of State is a party

7. DECC recognise the impacts that the security requirements of DSAs can have, particularly on smaller companies. Our requirements are as detailed below but we do encourage proposals for alternative forms of security. Alternatives must provide a similar level of security to letters of credit, i. e. be irrevocable, on demand and issued by a UK body of substance (see below).

8. We require the parties to a DSA to provide security such as cash, irrevocable standby Letters of Credit (LoCs) issued by a Prime Bank, or on-demand (performance) bonds from Prime Banks or issued by an Insurer regulated under the Financial Services and Markets Act 2000. For these purposes the security must be issued by a body established in an EU or OECD country with a UK lending or insurance office and which have an AA rating or better as defined by Standard and Poors, Aa2 rating or better as defined by Moodys or an equivalent rating by another recognised rating agency. We may consider proposals which do not fully meet these criteria and take account of factors such as the level of risk and decommissioning costs and the presence of other parties to the DSA.

9. The DSA should be on a full field basis and should establish a mechanism to allocate a share of the costs to each party. The security should cover each party's share of the pre-tax costs of decommissioning the installations and pipelines in the relevant field. In the event of default, although obligations remain joint and several, in the first instance other parties should cover the share of the default proportionate to their percentage interest.

10. The security should provide at least 100% of estimated costs including site clear-up after the main removal work. In most cases it will also be necessary to add a risk factor to cover the uncertainties surrounding cost calculations. The need for and the amount of this will vary depending on the complexities of the facilities to be decommissioned but in most circumstances will add 50% to the total cost estimate. Unless one party owns 100% of the interests, where the field concerned is in production and future revenues can be reasonably predicted, allowance would be made for those revenues on a post tax

basis. However, salvage value of the equipment can only be discounted if the security covers an FPSO type facility which has real intrinsic value. Following completion of the main removal activities ongoing security to cover the site clear up activities will be required (this amount will be in the range of 1-3% of the total decommissioning costs). Further information on the formula to be used to calculate the costs of decommissioning is contained within the template DSA and its accompanying guidance notes.

11. Unless alternative forms of security are agreed, the DSA should provide for the security in the form of LoCs, on-demand performance bonds or similar, to be renewed annually, 2 months before the next period of security is due to commence. In the event of the failure by any party to renew security before the next period, that party would be in default and the LoC or performance bond would be triggered and the money drawn down and deposited in a regulated Trust Fund to accrue interest until it is needed to pay for decommissioning costs.

12. In addition to cash, LoC or on demand bonds we would accept that a company of substantial financial standing can demonstrate its ability to meet all its potential liabilities without providing a financial security. The particular circumstances of the case and the level of decommissioning costs will determine whether this is feasible and what defines an acceptable financial status. However, the company would as a minimum have sufficient assets to easily afford both its potential liabilities for the project and its wider UKCS portfolio; with costs for each equating to less than 30% of the company's net worth (see Annex F). The assets backing the net worth figure would need to be held by the section 29 notice holder.

13. This approach does not change our policy on parent company guarantees discussed below because it is based on the statutory obligation of the section 29 notice and the assets of the company.

14. The DSA should be drafted to ensure that any potential liability of the Trust Fund to inheritance tax is accounted for in the calculation of the amount of security.

Unacceptable Security

Parent Company Guarantees (PCGs)

15. PCGs are not considered to represent acceptable security for the following reasons (although we are willing to consider any solutions which address them).

16. A standby letter of credit imposes a primary contractual obligation on the issuer to pay a specified sum of money on the happening of a specified event. It can be argued that a PCG is related to the underlying contract and is not therefore a primary obligation on the part of the guarantor. There remains, therefore, the possibility that the guarantor might dispute the basis on which the obligation in the underlying contract has arisen which could result in the matter becoming the subject of litigation.

17. There are companies with interests in the UKCS which are subsidiaries of major overseas companies but do not have significant UK assets and are reliant upon support from the overseas parent. DECC is concerned about the difficulties and potential delays in enforcing a PCG through foreign courts. Delay

could hamper our objective of ensuring timely decommissioning. This situation in turn creates a difficulty in accepting PCGs from UK parents. We are concerned that different approaches could be alleged to discriminate against recipients of section 29 notices whose parents are domiciled in other EU Member States as the Treaty of Rome prohibits discrimination on the basis of nationality. It is not our practice to accept PCGs from European parents. Whilst the Brussels Convention of 1968 ensures that it is possible for judgments obtained in one signatory state to be enforced in another such state, the Convention does not extend to revenue, customs or administrative matters and the recovery of decommissioning costs would be classed as an administrative matter

18. In some cases the parent company may not itself have the long-term financial strength we are looking for and in cases where a subsidiary is in financial difficulty this may indicate that the parent and/or group as a whole is in financial difficulty, as the need for the security to be called upon is most likely to arise in cases where the group as a whole is in financial difficulties. Moreover, in such cases, if the guarantor cannot or will not pay up under the guarantee, the remaining participants would be left without any easily accessible assets to cover the defaulting licensee's share of decommissioning costs. This might therefore expose the Secretary of State to the risks involved in trying to recover decommissioning costs from overseas parent companies.

Independent Audit

19. Estimates of decommissioning costs and of the net value of remaining recoverable reserves used to calculate the required levels of security must be carried out at least every 3 years and may be required annually depending on the project timescales. An independent third party expert approved by DECC must verify this audit process. Further details about the timing and frequency of such audits are contained within the template DSA.

Role of the Secretary of State

20. Where the parties agree to enter into a DSA of the kind described in the preceding paragraphs, the Secretary of State will become a party to the agreement to prevent any alterations being made to it without his consent. Any proposed changes to the agreement, in the event of a licence assignment, for example, would require a separate approval from the Secretary of State.

21. It is also conceivable that in the event of a default by all the other parties to a DSA, the Secretary of State may need to arrange decommissioning and draw on the securities arranged by the parties.

Independence of the DSA

22. The DSA must be a stand-alone document, entirely independent of the JOA and any other similar agreements.

STATUTORY CONSULTEES FOR A DECOMMISSIONING PROGRAMME

The National Federation of Fishermen's Organisations
NFFO Offices
30 Monkgate
York
YO31 7PF
(Tel: 01904 635430)

Scottish Fishermen's Federation
24 Rubislaw Terrace
Aberdeen
AB10 1XE
(Tel: 01224 646944)

Northern Ireland Fishermen's Federation
1 Coastguard Cottages
The Harbour
Portavogie
Co. Down
BT22 1EA
(Tel: 028 42771954)

Global Marine Systems Limited
New Saxon House
1 Winsford Way
Boreham Interchange
Chelmsford
Essex
CM2 5PD
(Tel: 01245 702000)

ANNEX 16
(Ref. 9.19)

OSPAR CONVENTION FOR THE PROTECTION OF THE MARINE ENVIRONMENT OF THE NORTH-EAST ATLANTIC

MEETING OF THE OSPAR COMMISSION (OSPAR)

STOCKHOLM: 26-30 JUNE 2006

OSPAR Recommendation 2006/5 on a Management Regime for Offshore Cuttings Piles

RECALLING Article 2(3)of the Convention for the Protection of the Marine Environment of the North-East Atlantic ("OSPAR Convention"), which, *inter alia*, requires Contracting Parties to take full account of the latest technological developments and practices when adopting programmes and measures and to this end requires Contracting Parties to define with respect to programmes and measures the application of best available techniques (BAT) and best environmental practice (BEP), including, where appropriate, clean technology;

RECALLING Article 5 of the OSPAR Convention, which requires the Contracting Parties to take all possible steps to prevent and eliminate pollution from offshore sources in accordance with the provisions of the Convention, in particular as provided for in Annex III;

RECALLING the programmes and measures contained in OSPAR Decision 98/3 on the Disposal of Disused Offshore Installations;

RECALLING the programmes and measures contained in OSPAR Decision 2000/3 on the Use of Organic-Phase Drilling Fluids (OPF) and the Discharge of OPF-Contaminated Cuttings;

The Contracting Parties to the Convention for the Protection of the Marine Environment of the North-East Atlantic RECOMMEND:

1. Definitions

1.1 For the purpose of this Recommendation:

'BAT'	means best available techniques as defined in Appendix 1 of the OSPAR Convention;
'BEP'	means best environmental practice as defined in Appendix 1 of the OSPAR Convention;
'cuttings'	means solid material removed from drilled rock together with any solids and liquids derived from any adherent drilling fluids;
'cuttings pile'	means an accumulation of cuttings on the sea bed which has been derived from more than one well;
'operator'	means a company controlling the operations of an offshore installation in a part of the maritime area which is under the jurisdiction of a Contracting Party;

'organic-phase drilling fluid (OPF)' means an organic-phase drilling fluid, which is an emulsion of water and other additives in which the continuous phase is a water-immiscible organic fluid of animal, vegetable or mineral origin;

'other discharges' means discharges other than discharges of OPF's which contain either chemicals on the OSPAR list of chemicals for priority action or radioactive substances;

2. Purpose and Scope

2.1 The purpose of this Recommendation is to reduce to a level that is not significant, the impacts of pollution by oil and/or other substances from cuttings piles.

2.2 This recommendation is in addition to the programmes and measures contained in OSPAR Decision 98/3 on the Disposal of Disused Offshore Installations and OSPAR Decision 2000/3 on the use of Organic Phase Drilling Fluids (OPF) and the discharge of OPF-Contaminated Cuttings.

2.3 This Recommendation applies to Contracting Parties which have cuttings piles within their jurisdiction in their internal waters or territorial sea, or on their continental shelf.

3. Programmes and Measures

3.1 The Cuttings Pile Management Regime is divided into two stages. Stage 1 involves initial screening of all cuttings piles. This should be completed within 2 years of the Recommendation taking effect. Stage 2 involves a BAT and/or BEP assessment and should, where applicable, be carried out in the timeframe determined in Stage 1.

Stage 1 (to be completed within 2 years of the Recommendation coming into effect)

3.2 Contracting Parties should require that all cuttings piles are screened, using existing information and relevant research, to identify those that require further investigation.

3.3 Where water-based drilling fluids were used and no other discharges have contaminated the cuttings pile, no further investigation is necessary.

3.4 Where organic-phase drilling fluids (OPF) were used and discharged or other discharges have contaminated the cuttings pile the following process should be completed:

3.4.1 Contracting Parties should require that the rate of oil loss and the persistence over the area of seabed contaminated are assessed using existing evidence where this is sufficient to carry out this process, and undertaking the relevant research where more information is needed;

3.4.2 The rate of oil loss should be assessed on the basis of the quantity of oil lost from the cuttings pile to the water column over time. The unit used should be tonnes per year (tonnes/yr);

3.4.3 The persistence should be assessed on the basis of the area of the seabed where the concentration of oil remains above 50mg/kg and the duration that this contamination level remains. The unit used should be square kilometre years (km²yrs).

3.5 The results of this process should be compared against the following thresholds:

Rate of oil loss to water column:	10 tonnes/yr
Persistence over the area of seabed contaminated:[1]	500 km²yr

3.6 Where both the rate and persistence are BELOW the thresholds and no other discharges have contaminated the cuttings pile, no further action is necessary and the cuttings pile may be left in situ to degrade naturally.

3.7 Where either the rate of oil loss or the persistence are ABOVE the thresholds, stage 2 should be initiated at a time to be determined by the Contracting Party, taking into account the rate of oil loss, the persistence over the area of seabed contaminated and the timing of the decommissioning of the associated installation.

Stage 2 (to be carried out in the timeframe determined in Stage 1)

3.8 The Contracting Party should require that a study is carried out to determine the best available techniques (BAT) and/or the best environmental practice (BEP) for the cuttings pile.

3.9 The study should characterise the cuttings pile, review the impacts and carry out a comparative assessment to determine BAT and/or BEP.

3.10 Characterisation should include determining the position, area and topography, hydrography, volume, physical characteristics, and chemical content, as well as a biological characterisation.

3.11 The current edition of the publication from Oljeindustriens Landsforening (OLF) 'Guidelines for Characterisation of Offshore Drill Cuttings Piles' (available on www.olf.no) may be used in the completion of the study, or other methods accepted by the Contracting Party.

3.12 Contracting Parties may require that a sampling programme should be used to define the limit of areas contaminated or to determine the effects on the macro-fauna, together with a more detailed characterisation of the cuttings pile.

3.13 When assessing BAT and/or BEP, consideration should include, but not be limited to, the following options:

- Onshore treatment and reuse
- Onshore treatment and disposal
- Offshore injection
- Bioremediation in situ
- Covering in situ
- Natural degradation in situ

3.14 The comparative assessment should be made on the same basis as a comparative assessment made under OSPAR Decision 98/3 on The Disposal of Disused Offshore Installations and include consideration of the following matters:

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[1] A persistence of 500 km^2yr could mean an area of 1km^2 is contaminated for 500 years or an area of 500 km^2 is contaminated for 1 year.

3.14.1 The assessment should consider the potential impacts of the proposed disposal of the cuttings pile on the environment and other legitimate uses of the sea. The assessment should also consider the practical availability of re-use, recycling and disposal options;

3.14.2 The information collated in the assessment should be sufficient to enable a reasoned judgement on the practicability of each of the disposal options, and to allow for an authoritative comparative evaluation;

3.14.3 The assessment of the disposal options should take into account, but need not be restricted to:

a. technical and engineering aspects of the option, including re-use and recycling and the impacts associated with cleaning the cuttings pile while it is offshore;

b. the timing of the decommissioning;

c. safety considerations associated with removal and disposal, taking into account methods for assessing health and safety at work;

d. impacts on the marine environment, including those arising from exposure of biota to contaminants associated with the cuttings pile, other biological impacts arising from physical effects, conflicts with the conservation of species, with the protection of their habitats, or with mariculture, and interference with other legitimate uses of the sea;

e. impacts on other environmental compartments, including emissions to the atmosphere, leaching to groundwater, discharges to surface fresh water and effects on the soil;

f. consumption of natural resources and energy;

g. other consequences to the environment which may be expected to result from the options;

h. impacts on amenities, the activities of communities and on future uses of the environment; and

i. economic aspects

3.14.4 For the matters outlined in 3.14.3, Contracting Parties should require each option to be assessed using appropriate methodologies. The preferred option should be selected by focussing on matters where there are significant differences. The means used to select the preferred option should be described and allow the Contracting Party to make consistent decisions;

3.14.5 The assessment should take into account the inherent uncertainties associated with each option, and should be based upon conservative assumptions about potential impacts. Cumulative effects from the disposal of material in the maritime area and existing stresses on the marine environment arising from other human activities should also be taken into account;

3.14.6 The assessment should also consider what management measures (including responsibilities, resources and funding) might be required to prevent or mitigate adverse consequences of each option,

and should indicate the scope and scale of any monitoring that may be required;

3.14.7 The assessment should take account of the decommissioning of the associated installation and especially the decommissioning of any seabed structures, the effect this may have on the cuttings pile and any opportunities that may emerge in relation to carrying out simultaneous activities to minimise the overall environmental impacts;

3.14.8 The assessment should also take account of potential disturbance of the pile due to other legitimate uses of the sea after decommissioning of the associated installation;

3.14.9 The assessment, which should be based on scientific principles and should be linked back to the supporting evidence and arguments, should be sufficient to enable the Contracting Party to reach a judgement on the proposal for BAT and/or BEP. Documentation should identify the origins of the data used, together with any relevant information on the quality assurance of that data.

3.15 The Contracting Party, taking account of the conclusions of the comparative assessment, should approve a plan, including a timeframe, to implement BAT and/or BEP.

3.16 The Contracting Party should consider whether to require reporting to confirm that the plan is progressing as expected and/or independent confirmation (e.g. from relevant fishing organisations) that it has been completed satisfactorily.

4. Entry into Force

4.1 This Recommendation has effect from 30 June 2006.

5. Implementation Report

5.1 Reports on the implementation of this Recommendation should be submitted by Contracting Parties with cuttings piles in their jurisdiction, using as far as possible the format set out in Appendix 1.

5.2 The reports should be submitted to the appropriate OSPAR subsidiary body in the meeting cycle 2008/2009. Subsequent reports on implementation should be made if deemed necessary by the Commission.

Format for Reporting on Implementation of OSPAR Recommendation 2006/5 on a Management Regime for Offshore Cuttings Piles

(Note: In accordance with paragraph 5.1 of the Recommendation, this format should be used as far as possible in implementation reports)

I. Implementation Report on Compliance

Country:	
Reservation applies	yes/no*
Is measure applicable in your country?	yes/no*

If not applicable, then state why not (e.g. no relevant cuttings piles)

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.....

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.....

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

Please provide information on:

specific measures taken to give effect to this measure;

b. any special difficulties encountered, such as practical or legal problems, in the implementation of this measure;

c. the reasons for not having fully implemented this measure should be spelt out clearly and plans for full implementation should be reported;

d. if appropriate, progress towards being able to lift the reservation.

.....

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* Delete whichever is not appropriate.

II. Implementation Report on Effectiveness

NOTE: The following data and information should be reported to the extent possible. Please state the reasons, if some required data and information cannot be provided.

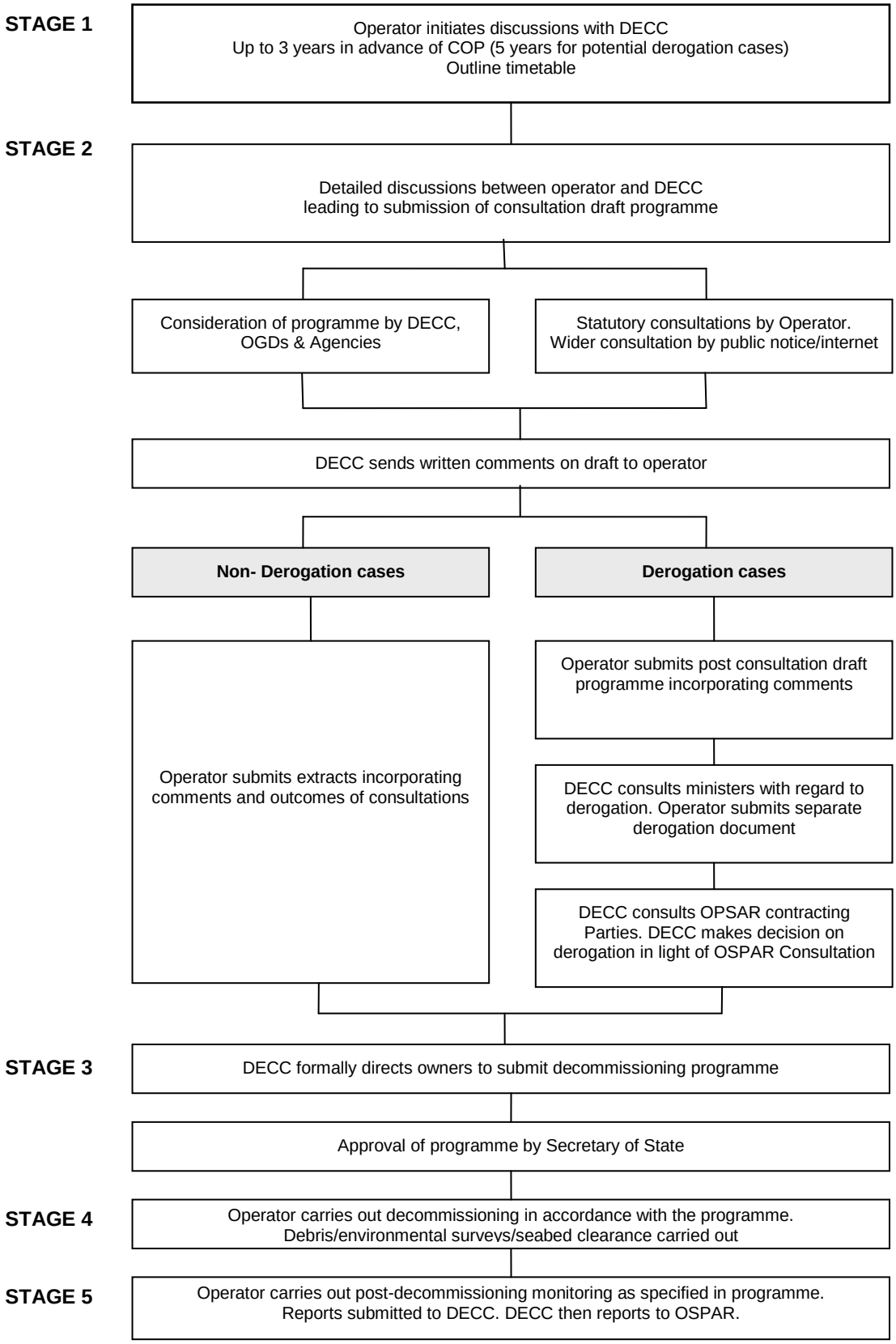
Total number of cuttings piles for which Stage 1 Assessment has been completed	
Total number of cuttings piles for which Stage 2 Assessment has been completed	
Total number of cuttings piles receiving:	
onshore treatment and reuse	
onshore treatment and disposal	
offshore injection	
bioremediation *in situ*	
covering *in situ*	
natural degradation *in situ*	
other treatment option explain…	

For cuttings piles assessed under Stage 1

Field	Rate of oil loss (te/yr)	Persistence (km^2yr)

ANNEX J

DECOMMISSIONING PROGRAMME PROCESS: FLOWCHART



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References are to paragraph numbers, e.g. 3.23; Annex E.17. Annex B has four annexes marked, e.g. Annex B/3.

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