

<p>Title: The Energy Act 2008 (Consequential Modifications) (Offshore Environmental Protection) Order 2010 (“the 2010 Order”)</p> <p>PIR No: BEIS044(PIR)-21-OPRED</p> <p>Original IA/RPC No: N/A</p> <p>Lead department or agency: BEIS</p> <p>Other departments or agencies: N/A</p> <p>Contact for enquiries: David Foskett E-mail: David.Foskett@beis.gov.uk Tel: 0300 068 6063</p>	Post Implementation Review
	Date: 01/12/2021
	Type of regulation: Domestic
	Type of review: Statutory
	Date measure came into force: 01/07/2010
	Recommendation: Keep
	RPC Opinion: Choose an item.

1. What were the policy objectives of the measure? (Maximum 5 lines)

The 2010 Order was consequential to the introduction of a licensing regime (under the Energy Act 2008) for: (i) the offshore unloading & storage of gas (“GUS”); and (ii) the offshore unloading & storage of carbon dioxide (“CO2 storage”). The 2010 Order extended the scope of the environmental protection legislative regime for offshore oil & gas operations in the UK so that the regulatory requirements could also be appropriately applied to GUS and CO2 storage activities. See further details in the Annex.

2. What evidence has informed the PIR? (Maximum 5 lines)

There are presently no offshore GUS or CO2 storage operations in the UK. There was one installation which stored gas until 2017. Consequently, no substantive evidence exists to undertake a thorough PIR.

3. To what extent have the policy objectives been achieved? (Maximum 5 lines)

The 2010 Order’s Articles (*three of which required BEIS to conduct a PIR but one of them is revoked as the legislation it covered was replaced by subsequent legislation (with PIR provisions) that applies to all offshore hydrocarbon activities - see the Annex*) have only been tested in respect to the GUS operations of one installation which ceased storing gas in 2017. No insurmountable enforcement problems were encountered by BEIS so there is no evidence to suggest that the policy objectives have not been met.

Sign-off for Post Implementation Review by the Minister

I have read the PIR and I am satisfied that it represents a fair and proportionate assessment of the impact of the measure.

Signed:



Date: 02/12/2021

Further information sheet

Please provide additional evidence in subsequent sheets, as required.

4. What were the original assumptions? (Maximum 5 lines)

No Impact Assessment (IA) was prepared for the 2010 Order - however, the 'Impact section' of the Explanatory Memorandum (<https://www.legislation.gov.uk/uksi/2010/1513/memorandum/contents>) stated that aspects of the updated assessments for the offshore gas unloading & storage (GUS) and CO2 storage licensing regimes - based on the IA for the Energy Bill 2008 - were relevant. The assumptions of one new GUS project per year for five years and four CO2 storage projects up to 2018 did not materialise.

5. Were there any unintended consequences? (Maximum 5 lines)

As none of the expected offshore GUS or CO2 storage projects materialised and given the cessation in 2017 of the one offshore installation's GUS operations, there is presently no tangible evidence on which to base an assessment of the 2010 Order's effectiveness, unintended consequences, or burdens on the offshore hydrocarbons sector.

6. Has the evidence identified any opportunities for reducing the burden on business? (Maximum 5 lines)

Based on the response to question 5, there is currently no tangible evidence to identify, at this stage, whether there are opportunities for reducing any burdens that the 2010 Order may place on future offshore GUS and / or CO2 storage operations.

7. How does the UK approach compare with the implementation of similar measures internationally, including how EU member states implemented EU requirements that are comparable or now form part of retained EU law, or how other countries have implemented international agreements? (Maximum 5 lines)

The legislation covered by the 2010 Order - including that which is no longer subject to the 2010 Order's provisions - implements both EU law (now as retained UK law) and other international obligations. The UK's implementation approach should essentially mirror that of EU member states (MS) and EEA states which have an offshore hydrocarbons industry, because the same international obligations applied equally to the UK, MS and EEA states.

ANNEX

The Energy Act 2008 (Consequential Modifications) (Offshore Environmental Protection) Order 2010

1. Policy Background

The Energy Act 2008 makes provision under Part 1, Chapters 2 & 3 for the regulation of gas unloading and storage (“GUS”) plus the unloading and storage of carbon dioxide (“CO2 storage”) through a licensing and enforcement regime. The licensing regime for GUS and CO2 storage was introduced via the Offshore Gas Storage and Unloading (Licensing) Regulations 2009 and the Storage of Carbon Dioxide (Licensing etc.) Regulations 2010.

Following enactment of the Energy Act 2008 (Consequential Modifications) (Offshore Environmental Protection) Order 2010 (“the 2010 Order”), the scope of these Regulations (as covered by the 2010 Order and which underpin BEIS / OPRED’s¹ environmental protection legislative regime for offshore oil and gas operations in the UK) were extended (subject to geographical limitations reflecting the devolution settlements) so that the provisions could also be appropriately applied to GUS and CO2 storage activities:

Article 2 - The Offshore Petroleum Production and Pipe-lines (Assessment of Environmental Effects) Regulations 1999

Article 3 - The Offshore Petroleum Activities (Conservation of Habitats) Regulations 2001

Article 4 - The Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007

Article 5 - The Offshore Combustion Installations (Prevention and Control of Pollution) Regulations 2001

Article 6 - The Offshore Chemicals Regulations 2002

Article 7 - The Offshore Installations (Emergency Pollution Control) Regulations 2002

Article 8 - The Greenhouse Gas Emissions Trading Scheme Regulations 2005

Article 9 - The Offshore Petroleum Activities (Oil Pollution Prevention and Control) Regulations 2005

Article 10 - The REACH Enforcement Regulations 2008

Article 11 - The Fluorinated Greenhouse Gases Regulations 2009

The 2010 Order was amended by the Energy (Transfer of Functions, Consequential Amendments and Revocation) Regulations 2016 which inserted ‘Post Implementation Review (PIR)’ provisions for the BEIS Secretary of State (SoS) into the 2010 Order in respect to Articles 2, 3(1) to (5) and 9. The first review of the 2010 Order is scheduled for 2021 and the publication of this PIR will meet that legal obligation.

¹ OPRED - The Offshore Petroleum Regulator for Environment and Decommissioning

2. Current Status of the 2010 Order

One of the three Articles in the 2010 Order which are subject to a PIR by virtue of the Energy (Transfer of Functions, Consequential Amendments and Revocation) Regulations 2016 is revoked as the legislation it covered was initially amended and then eventually replaced by subsequent legislation (with PIR provisions) that applies to all offshore hydrocarbon operations - including GUS and CO2 storage activities, as described below:

Article 2 - The Offshore Petroleum Production and Pipe-lines (Assessment of Environmental Effects) Regulations 1999 (“the 1999 Regulations”)

Article 2 of the 2010 Order was revoked by regulation 22 in Part 1 of the Offshore Petroleum Production and Pipe-lines (Environmental Impact Assessment and other Miscellaneous Provisions) (Amendment) Regulations 2017 which amended the 1999 Regulations - as previously amended by the Offshore Petroleum Production and Pipe-lines (Assessment of Environmental Effects) (Amendment) Regulations 2007.

The 1999 Regulations were additionally amended by:

- (a) The Energy (Transfer of Functions, Consequential Amendments and Revocation) Regulations 2016 which inserted ‘PIR’ provisions for the BEIS SoS into the 1999 Regulations.
- (b) The Pipe-lines, Petroleum, Electricity Works and Oil Stocking (Miscellaneous Amendments) (EU Exit) Regulations 2018.
- (c) The Offshore Petroleum Production and Pipe-lines (Assessment of Environmental Effects) (Coronavirus) (Amendment) Regulations 2020.
- (d) Fees Regulations in 2015, 2016, 2019 and 2020.

Following the coming into force of the Offshore Oil and Gas Exploration, Production, Unloading and Storage (Environmental Impact Assessment) Regulations 2020 (“the 2020 Regulations”) on 31 December 2020, the 1999 Regulations (as amended) continue to apply only for the purposes specified in regulation 29 (transitional and savings provisions) of the 2020 Regulations. Regulation 30 of the 2020 Regulations contains ‘PIR’ provisions for the BEIS SoS. The first review is scheduled for 2025.

Therefore, the Articles within the 2010 Order which remain subject to the requirement for a PIR are:

- **Article 3 - The Offshore Petroleum Activities (Conservation of Habitats) Regulations 2001 (“the 2001 Regulations”)**

Article 3 of the 2010 Order was amended by Part 4 of the Offshore Petroleum Production and Pipe-lines (Environmental Impact Assessment and other Miscellaneous Provisions) (Amendment) Regulations 2017 and the Offshore Oil and Gas Exploration, Production, Unloading and Storage (Environmental Impact Assessment) Regulations 2020.

The 2001 Regulations have been amended by:

(a) The Offshore Petroleum Activities (Conservation of Habitats) (Amendment) Regulations 2007.

(b) The Energy (Transfer of Functions, Consequential Amendments and Revocation) Regulations 2016 which inserted 'PIR' provisions for the BEIS SoS into the 2001 Regulations. The first review is scheduled for 2021 but due to the need to undertake in-depth analyses and evidence gathering which will involve the conducting of surveys with the offshore oil and gas industry, the review report is likely to be published during Q1 of 2022.

(c) Part 4 of the Offshore Petroleum Production and Pipe-lines (Environmental Impact Assessment and other Miscellaneous Provisions) (Amendment) Regulations 2017.

(d) The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019.

(e) The Offshore Oil and Gas Exploration, Production, Unloading and Storage (Environmental Impact Assessment) Regulations 2020.

- **Article 9 - The Offshore Petroleum Activities (Oil Pollution Prevention and Control) Regulations 2005 ("the 2005 Regulations")**

The 2005 Regulations have been amended by the Offshore Petroleum Activities (Oil Pollution Prevention and Control) (Amendment) Regulations 2011 which also, by virtue of regulation 23, amended Article 9 of the 2010 Order.

Regulation 19 of, and Schedule 1 to, the 2005 Regulations were subsequently revoked by regulation 38(1)(b) of the Offshore Combustion Installations (Pollution Prevention and Control) Regulations 2013.

The 2005 Regulations have been further amended by:

(a) The Energy (Transfer of Functions, Consequential Amendments and Revocation) Regulations 2016 which inserted 'PIR' provisions for the BEIS SoS into the 2005 Regulations. The first review is scheduled for 2021 but due to the need to undertake in-depth analyses and evidence gathering which will involve the conducting of surveys with the offshore oil and gas industry, the review report is likely to be published during Q1 of 2022.

(b) The Offshore Oil and Gas Exploration, Production, Unloading and Storage (Environmental Impact Assessment) Regulations 2020.