The 14th onshore oil & gas licensing round is live

The UK Government has published application criteria and terms for the 14th onshore oil and gas licensing round, accompanied by new guidance. Many but not all issues of concern to developers and others have been dealt with. The need for planning and environmental input at the licensing stage is also significantly increased.

Application Deadline

Applications for new licences under the 14th round can be made until 2pm on 28 October 2014.

Licence model terms set out in the Petroleum Licensing (Exploration and Production) (Landward Areas) Regulations 2014 are tailored to ‘unconventional’ oil and gas and include:

- New ‘drill or drop’ provisions
- Extension terms, retention and development areas
- New 3D horizon splitting concept on surrender
- Echoes of Wood Review requirements for maximising economic recovery
- Remaining concerns with confidentiality provisions and water injection provisions

Environmental Awareness

The DECC criteria introduce a new requirement, for detailed Statements of Environmental Awareness (EAS) to be submitted with licence applications. They are intended to ‘demonstrate applicants’ understanding of the environmental sensitivities relevant to the area proposed’.

This new requirement reflects the challenges current operators have faced in managing the interface with ecological and other sensitivities. Cuadrilla abandoned drilling operations at its Anna’s Road site in Lancashire earlier this year following difficulties with protected species mitigation and Celtique recently suffered the first refusal of permission for shale related operations at its Wisborough Green site in West Sussex, due to concerns over transportation and noise effects. The EAS also reflect the way that the licensing process is now intended to address European and domestic law requirements for assessing impacts protected habitats, to deflect legal criticisms of the licensing process (see below).
New challenges

The EAS now requires applicants to demonstrate a clear understanding of the following (and how they will shape their exploration activity within the license area):

- **UK onshore Environmental and Planning Legislation** relevant to exploration, development, production and decommissioning stages;

- **Environmental sensitivities of the licence area** – a 100 km² ‘Block’ – and the options for addressing these in the operational phase

- **Mitigation Measures** - how the measures proposed in the Government’s Strategic Environmental Assessment (SEA) report (AMEC, December 2013) will be put in place operationally.

The EAS must also contain a context analysis identifying all ‘significant’ environmental sites in the licence Block (and sufficiently close to it to be affected). ‘Particularly comprehensive and detailed’ analysis will be required where the area is within or adjacent to any National Park, or the Broads, or any Areas of Outstanding Natural Beauty or World Heritage Site.

Narrowing the data on geophysical, logistical and environmental constraints down to get to a feasible surface access point for fracking in the UK is a challenge. The challenge for licence applicants in preparing a robust EAS will be considerable, given the scale of the Block areas, the scrutiny by national and local interest groups and the fact that the Government is relying on this analysis to discharge Conservation of Habitats and Species Regulations 2010 requirements.

To put the task into context, DECC’s 14th Onshore Round Map suggests that the c. 15,000 km² (c. 1.5 million ha) area already licensed will increase by around 104,000 km² (c. 10.4 million ha). The total licensed area (assuming all the 14th Round licenses were in fact applied for/ granted/ progressed) would be around 50% of the surface area of Great Britain (excluding Northern Ireland) – roughly a seven-fold increase in the licenced area. In reality, DECC is understood to have set an internal target of approving 30 licences (out of around 1,040 available Blocks). Several existing licences have been relinquished in the last few months due, often, to a failure to progress exploration. They may be re-licensed in the 14th Round.

Legal challenges

Responses to the Government’s SEA consultation confirm that interested parties are considering legal challenges to both the 14th round and to individual licence awards. There has been criticism of the Government’s decision to undertake SEA but not an ‘Appropriate Assessment’ (under the Conservation of Habitats and Species Regulations 2010). Its assumptions about the adequacy of the existing regulatory framework for shale development are also under fire. As the written statement to Parliament explains, the Government has decided to address the habitats requirement at the individual licence stage, where greater detail will be available. The new EAS requirement is intended to address this, by ensuring the environmental effects are dealt with robustly. It means there will, for the first time, be significant scrutiny of the adequacy of environmental assessments by interested parties during the PEDL round.

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Future Updates in this series will review the implications of the Planning Policy Guidance issued alongside the PEDL application criteria and the further regulatory reforms implemented or needed to ensure shale development is viable.

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