

SANCTION NOTICE

To: **Repsol Sinopec North Sea Limited**
Company Number: 01061863

Addresses: **Suite 1**
7th Floor
50 Broadway
London
SW1H 0BL

Date: **5 December 2023**

1. SANCTION

- 1.1. For the reasons given in this Sanction Notice, the North Sea Transition Authority (“**NSTA**”)¹ gives a Sanction Notice to Repsol Sinopec North Sea Limited (“**Repsol**”) for its failure to comply with a petroleum-related requirement and a Financial Penalty Notice which imposes on Repsol a financial penalty of **£160,000** (one hundred and sixty thousand pounds).

2. SUMMARY

- 2.1 Where there has been a failure to comply with a petroleum related requirement (“**PRR**”), the NSTA may issue a sanction under Chapter 5 of the Energy Act 2016 (“**the 2016 Act**”). A PRR includes a requirement imposed on a person by or under a provision of the 2016 Act which, by virtue of the provision, is sanctionable in accordance with Chapter 5.
- 2.2 Section 12A(1) of the Energy Act 1976 (“**the 1976 Act**”) states that the NSTA’s consent is required to flare or vent gas from a relevant oil processing facility or relevant gas processing facility and s.12B of that same Act provides that those requirements are to be treated for the purposes of Chapter 5 of the 2016 Act as petroleum related requirements.

¹ On 21 March 2022, the Oil & Gas Authority (“**OGA**”) changed its business name to the North Sea Transition Authority (“**NSTA**”). The abbreviation NSTA is used throughout this document to refer to both the NSTA now and when it was known as the OGA. The NSTA exercises powers under Chapter 5 of the Energy Act 2016 on behalf of the OGA. Any reference in this Notice to the exercise of power under Chapter 5 of the Energy Act 2016 refers to the NSTA exercising powers on behalf of the OGA.

- 2.3 As the Fulmar facility provides gas processing services and oil processing services it requires the consent of the NSTA to flare or vent².
- 2.4 The flare and vent consents for Auk North, Halley and Fulmar fields and associated flaring and venting facilities located at the Fulmar facility expired on **30 June 2022**.
- 2.5 The NSTA considers that, Repsol knowingly and without the necessary statutory consent, disposed of natural gas from a relevant oil processing facility and relevant gas processing facility:
- (a) by releasing (otherwise referred to as venting) it unignited into the atmosphere between **1-2 July 2022**; and
 - (b) by flaring between **2-7 July 2022**,
- contrary to section 12A of the 1976 Act ("**the Breach**").

3 BACKGROUND

- 3.1 In addition to processing and exporting production from the Fulmar field, the Fulmar facility also provided fluid stabilisation and oil and gas export services for production from the Auk North and Halley fields. All three fields have ceased production and their respective production consents expired on **31 December 2018**.
- 3.2 The Fulmar facility continues to provide oil and gas export services for fluids from the Auk field and the Clyde hub. At the time of the Breach, the producing fields in the Clyde hub were Clyde, Medwin, Nethan, Leven, Orion and Flyndre.
- 3.3 Since **1 January 2019**, Repsol as the operator of the Fulmar facility has received short term flare and vent consents, typically of 6-month duration, to cover, amongst other things, flaring associated with post cessation of production activities on Fulmar, Auk North and Halley. Since **1 July 2020**, the short-term flare and vent consents have incorporated bespoke wording to recognise that the main users of the Fulmar platform are now third parties, and record that the Fulmar facility is operating as a "*relevant oil processing facility or a relevant gas processing facility*"³ providing such processing services to the third parties.
- 3.4 On Friday **1 July 2022**, the NSTA informed Repsol that there was no valid flare consent and no valid vent consent for Auk North, Halley & Fulmar, due to the current consents having expired on **30 June 2022**.
- 3.5 In a telephone call with the NSTA Consents Team on **1 July 2022**, Repsol advised that it may have to flare and vent over **1-3 July 2022**. The NSTA Consents team, in that call, reminded

² [Energy Act 2011, s.90 when read with Energy Act 1976 Section 12A.](#)

³ [s12A, Energy Act 1976](#)

Repsol that it had no valid flare or vent consent and that, if it flared or vented over the weekend, it would be in breach of the requirement to have consent to do so from the NSTA.

- 3.6 As part of the call with the NSTA Consents Team, the NSTA advised Repsol to apply for new flare and vent consents for the Fulmar facility. Repsol made its application for both flaring and venting consents on **1 July 2022**. However, because the information provided by Repsol to the NSTA was incomplete, the figures and associated information did not meet NSTA information requirements. For example, Repsol did not provide supporting calculation spreadsheets, monthly statistics or information on flare and vent reduction improvement opportunities. Due to the applications not meeting NSTA information requirements, they were sent back to Repsol multiple times until the NSTA was content. The application process took one week, with satisfactory applications finally being received by the NSTA on **8 July 2022**.
- 3.7 On Monday **4 July 2022**, Repsol confirmed to the NSTA it had continued to flare and vent from **1 July 2022** without consent.
- 3.8 On **5 July 2022**, at the Auk North, Halley and Fulmar Consent Stewardship meeting, Repsol accepted responsibility for missing the deadline for applying for a revised consent. Repsol noted that its tracker did not highlight the termination date of the short-term consent, focusing instead on volume flared and vented. Repsol stated significant changes of personnel contributed to Repsol missing the expiry date for the consents.
- 3.9 At the same meeting on **5 July 2022**, the NSTA challenged Repsol on why it did not shut down operations when it was made aware Auk North, Halley and Fulmar had no valid flare and vent consents. Repsol stated that, for operational and emissions reasons associated with continuing operations with power generation on diesel, Repsol made the decision to operate on gas to ensure steady power generation. Repsol stated that flare and vent volumes recorded from **1 July 2022** onwards were predominantly associated with the operation of the fuel gas system. Therefore, a decision was made to continue operations without flare and vent consents.
- 3.10 On **8 July 2022**, the NSTA issued new short-term flare and vent consents for the period **8 July 2022** to **31 December 2022**.

Flare and Vent Consents

- 3.11 The introduction to the NSTA's [Flare and Vent Guidance](#) provides the following description of the function of flaring and venting:

“Flaring and venting are controlled processes to dispose of gas, essential for emergency and safety purposes on oil and gas installations, and in situations where it may not be feasible for the gas to be used, exported or re-injected. Flaring is the ignition of gas, and venting is the release of unignited gas.”

- 3.12 The NSTA considers that the effective management of flare and vent consents is a vital indicator of good stewardship of fields by operators and licensees. The management of flare

and vent consents is an important component of a stable well-regulated environment in which industry, investors and the public can have confidence.

4. LICENSEES

- 4.1 The Auk North, Halley and Fulmar fields and associated flaring and venting facilities located at the Fulmar platform are on licences P116, P185, P256 and P295.
- 4.2 Auk North is licence P116 (30/16n) and P295 (Block 30/16t). Repsol Sinopec Resources UK Limited is the operator of both and has a 100% equity in Auk North.
- 4.3 Halley is licence P185 (Blocks 30/12b and 30/11b). Repsol Sinopec Resources UK Limited is the operator and has a 60% equity in Halley. Spirit Energy North Sea Oil Limited has a 40% equity in Halley.
- 4.4 Fulmar is licence P185 (Block 30/11b) and P256 (30/16s). Repsol is the operator of both and has a 100% equity in Fulmar.
- 4.5 The NSTA has determined that enforcement should be pursued only in relation to Repsol given that Repsol was in day to day control and the operator of the Fulmar facility. For this reason, a Financial Penalty Notice is issued solely to Repsol.

5. FAILURE TO COMPLY

5.1. Under section 42 of the 2016 Act, the NSTA has a power to give a Sanction Notice where it considers that a person has failed to comply with a petroleum-related requirement which is imposed on it. Section 42(3) of the 2016 Act defines a petroleum-related requirement as:

- a. *“a duty imposed under section 9C of the Petroleum Act 1998 to act in accordance with the current strategy or strategies produced under section 9A(2) of that Act for enabling the principal objective to be met,*
- b. *a term or condition of an offshore licence, or*
- c. *a requirement imposed on a person by or under a provision of this Act which, by virtue of the provision, is sanctionable in accordance with [Chapter 5 of the Energy Act 2016].”*

5.2. Sections 12A and 12B of the 1976 Act were inserted by Schedule 1 of the 2016 Act.

5.3. Section 12A of the 1976 Act requires that the NSTA’s consent is obtained for natural gas to be disposed of *“by flaring, or releasing it unignited into the atmosphere, from anything that for the purposes of section 82(1) of the Energy Act 2011 is a relevant oil processing facility or a relevant gas processing facility”*.

5.4. By carrying out processing operations⁴, the Fulmar facility falls within the meaning of an oil processing facility and a gas processing facility as set out in *section 90 of the Energy Act 2011*

⁴ [Energy Act 2011, Part 2, Chapter 3, section 90](#)

(and therefore is an oil processing facility and a gas processing facility for the purposes of section 82(1) of that same Act).

5.5. Repsol knowingly continued to vent without the necessary statutory consent from **1-2 July 2022** and flare without consent from **2-7 July 2022** (“**the relevant period**”) in the amounts outlined below (confirmed by Repsol). The gas flared and vented during that period was as follows:

Date	Flare Hydrocarbons(t)	Vent Hydrocarbons(t)
01 July 2022	0.00	9.54
02 July 2022	3.68	17.27
03 July 2022	8.22	0.00
04 July 2022	6.91	0.00
05 July 2022	13.80	0.00
06 July 2022	6.43	0.00
07 July 2022	7.79	0.00
Total	46.83	26.81

6. THE SANCTION WARNING NOTICE

- 6.1. A Sanction Warning Notice was issued to Repsol on **30 August 2023**, and Repsol was given the opportunity to provide representations on the matters contained therein. In a response dated **27 September 2023**, Repsol stated that, save as detailed in prior correspondence and responses to the NSTA’s information requests, Repsol had no further representations to make in response to the Sanction Warning Notice.
- 6.2. Repsol further stated that it takes the issue of compliance with regulatory consents very seriously and that it has implemented revised internal processes and controls to avoid any future recurrence of this breach.
- 6.3. In arriving at the decision set out in this Notice, the NSTA has carefully considered the contents of the **27 September 2023** letter in addition to the correspondence and responses provided by Repsol in response to the NSTA’s information requests.

7. THE SANCTION IMPOSED

- 7.1. By section 12B(2) of the 1976 Act⁵, the NSTA may not give an enforcement notice, a revocation notice or an operator removal notice in respect of a breach of section 12A. Therefore, the only available sanction in relation to the Breach is to issue Repsol with a Financial Penalty Notice.
- 7.2. The NSTA issues this Sanction Notice requiring Repsol to pay a financial penalty of **£160,000.00** (“**the Financial Penalty**”), within 30-days of the date of this Sanction Notice, to the NSTA in respect of the Breach, which will be paid to HM Treasury. In arriving at the level

⁵ “[The NSTA] may not give an enforcement notice, a revocation notice or an operator removal notice under that Chapter by virtue of this section.” [Energy Act 1976 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/1976/30/section-12B)

of the Financial Penalty the NSTA has had regard to those matters listed at section 8 of the Energy Act 2016, in particular the need to maintain a stable and predictable system of regulation which encourages investment in relevant activities, which appears especially relevant here.

- 7.3. Taking enforcement action in respect of a failure to hold the necessary statutory venting and flaring consents helps to maintain a stable and predictable system of regulation by demonstrating how the NSTA is acting to ensure that regulatory obligations are complied with.

Consideration of the NSTA's Financial Penalty Guidance

- 7.4. In deciding the level of financial penalty to impose in respect of the Breach, the NSTA has had regard to its Financial Penalty guidance⁶.
- 7.5. The NSTA has considered carefully the aims set out in paragraph 16 of the Financial Penalty guidance, which are that any financial penalty determined should be among other things:
- 7.5.1.** effective in addressing the underlying cause of the failure to comply;
 - 7.5.2.** dissuasive of future failure to comply, either by the person or, further to publication of the Sanction Notice, other persons in similar circumstances; and
 - 7.5.3.** proportionate to the significance of the failure in the context of the petroleum-related requirement and the impact on the relevant persons.
- 7.6. The NSTA considers that it is appropriate to impose a sanction in respect of the Breach and that a financial penalty set at **£160,000.00** sends a strong message to Repsol and other persons in similar circumstances that that the NSTA takes compliance with the need to have appropriate venting and flaring consents in place seriously. In that regard, the NSTA considers that the level of the Financial Penalty (particularly when published) will be effective in addressing the underlying cause of the Breach and dissuasive of future failures to comply with regulatory obligations.
- 7.7. The NSTA considers that, a financial penalty of **£160,000.00** is proportionate to the significance of the Breach, noting in particular the level of financial penalties that the NSTA has previously issued in respect of a failure to have in place an appropriate venting and/or flaring consent. The NSTA is also mindful that here, Repsol continued to vent and flare despite knowing that it did not have the necessary statutory consent in place from the NSTA.
- 7.8. Paragraph 17 of the NSTA's Financial Penalty Guidance sets out various matters that the NSTA may also take into account when determining the amount of a financial penalty, as follows:

7.8.1. The extent to which Repsol may have sought to benefit from the failure to comply

⁶ By section 45 of the Energy Act 2016, the NSTA must issue guidance as to the matters to which it will have regard when determining the amount of the financial penalty to be imposed by a financial penalty notice.

Repsol had the benefit of continued production between **1-7 July 2022** without the necessary statutory consents.

7.8.2. Any gain (financial or otherwise) made by the person(s) as a consequence of the failure to comply

As with the NSTA's consideration under paragraph 7.8.1, Repsol had the benefit of continued production between **1-7 July 2022** without the necessary statutory consents.

7.8.3. The severity of the failure to comply

The NSTA has repeatedly signalled to the UK upstream oil and gas industry ("**Industry**") that compliance with its regulatory obligations is vitally important to sustaining the industry's social licence to operate in the UKCS⁷.

A failure to comply with flare and vent consents has the potential to undermine public confidence in the ability of the industry to operate within prescribed limits which in turn impacts and/or affects the industry's social licence to operate, may undermine the confidence of investors, and potentially undermines the authority of the regulator. In particular, the NSTA notes the factors contained in section 8(1) of the 2016 Act, that it must have regard to when exercising its functions. In this case, the potential severity also relates to insufficient attention being given to stewardship of the asset.

7.8.4. The degree of harm caused, or increased costs incurred by the failure to comply

Repsol's failure to comply undermines trust and confidence in Repsol's asset management and its oversight of its regulatory obligations. It raises questions as to Repsol's attention and investment in regulatory compliance.

7.8.5. The extent to which parties have followed Industry Codes of Practice relevant to the failure to comply

There are no relevant industry codes of practice governing flaring and venting. There is NSTA guidance on flaring and venting (published in June 2021) and field consents system user guidance on how to apply for consents. The guidance is specific that "*The [NSTA] expects that operators will not exceed flare or vent consent levels. Breach of consent may result in sanction under the terms of the licence*".

7.8.6. The duration of the contravention

⁷ See: [Open letter from the NSTA to licensees and infrastructure owners to outline the next stage of our regulatory approach, 4 June 2019](#); and the NSTA's [Thematic Review into Industry Compliance with Regulatory Obligations, 29 October 2020](#).

Repsol has confirmed it continued to vent without consent from **1-2 July** and flare without consent from **2-7 July 2022**.

7.8.7. Mitigating circumstances and/or behaviours

Consideration has been given to the remedial action taken by Repsol subsequent to the breach. This involved the introduction of new internal mechanisms/processes intended to prevent future occurrences of the failure to comply.

Repsol has fully co-operated with the NSTA's investigation.

7.8.8. Aggravating circumstances and/or behaviours

Repsol was fully aware that it did not have consent to flare or vent, yet continued to do so during the relevant period. Repsol advised that it may have to flare and vent over the weekend of **1-3 July 2022**, and was aware that it did not have a valid consent for this period. Repsol proceeded to do so without consent. Repsol then continued to flare and vent for an additional four days beyond its original estimates due to problems with the application submission for a new consent to vent and flare. This was done without specific notification to the NSTA of an intention to continue flaring and venting without consent in this additional period. Repsol's continuation to flare and vent without consent indicates a failure by Repsol to have in place robust processes and procedures to ensure compliance with Repsol regulatory obligations.

Repsol stated its trackers were set up to monitor volumes and not dates, demonstrating it had an absence of internal mechanisms/processes in place to prevent the failure to comply.

8. PUBLICATION OF THE SANCTION NOTICE

- 8.1. Pursuant to section 53 of the Energy Act 2016, the NSTA may publish details of any Sanction Notice given in accordance Chapter 5 of the Energy Act 2016.
- 8.2. The NSTA may not publish anything that, in the NSTA's opinion is (a) commercially sensitive; (b) not in the public interest to publish; or (c) otherwise not appropriate for publication.⁸
- 8.3. The NSTA does not consider that the Sanction Notice contains any commercially sensitive information. Further, the NSTA considers that publication of the Sanction Notice without redaction is both in the public interest and appropriate. The NSTA considers that the public interest in publishing the Sanction Notice includes:
 - (a) developing public and investor confidence in the UK basin by demonstrating how the NSTA is acting to ensure that regulatory obligations are complied with,
 - (b) encouraging licensees to come forward with information that can assist NSTA investigations,
 - (c) enhancing licensee and public understanding of when the NSTA does, and does not, consider it appropriate to take enforcement action, and

⁸ [Energy Act 2016](#), section 53(2).

(d) providing a means of achieving due process and ensuring that parties directly involved in the case are treated fairly.

8.4. Therefore, the NSTA considers it appropriate to publish the Sanction Notice.