



Department for  
Business, Energy  
& Industrial Strategy

BEIS RESPONSE TO THE CONSULTATION ON  
CHANGES TO REGULATIONS TO RECOVER COSTS  
OF SERVICES UNDER THE OFFSHORE PETROLEUM  
ACTIVITIES (OIL POLLUTION PREVENTION AND  
CONTROL) REGULATIONS 2005 (AS AMENDED) AND  
THE OFFSHORE CHEMICALS REGULATIONS 2002 (AS  
AMENDED)



November 2016

# BEIS Response to the Consultation on Changes To Regulations To Recover Costs Of Services Under The Offshore Petroleum Activities (Oil Pollution Prevention And Control) Regulations 2005 (As Amended) and the Offshore Chemicals Regulations 2002 (As Amended)

The consultation can be found on GOV.UK:

<https://www.gov.uk/government/consultations/changes-to-regulations-to-recover-costs-of-services-under-offshore-petroleum-activities-oil-pollution-prevention-and-control-regulations-2005-as-am>

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# Introduction

Offshore oil and gas activities have an important role in the nation's requirements for security of supply. The activities are controlled under a number of statutory regulatory functions to minimise the environmental impact, which are administered by the Department for Business, Energy and Industrial Strategy (BEIS). The functions also apply to offshore gas and carbon dioxide storage activities.

The consultation on changes to regulations to recover costs of services under the Offshore Petroleum Activities (Oil Pollution Prevention and Control) Regulations 2005 (as amended) – “OPPC” and the Offshore Chemicals Regulations 2002 (as amended) – “OCR” was launched on 6 July 2016 and closed on 6 September 2016. Further details are available at:

<https://www.gov.uk/government/consultations/changes-to-regulations-to-recover-costs-of-services-under-offshore-petroleum-activities-oil-pollution-prevention-and-control-regulations-2005-as-am>.

The consultation related to proposed changes to regulation 6 of the OPPC and regulation 8 of the OCR, in order to enable the Department to charge Industry a fee for providing certain services under these Regulations. The Department would not be seeking to make a profit from such a fee but merely to recover its costs in carrying out the regulatory services.

Current charging schemes relating to these regulations are available at:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/446290/OPPC\\_2015 - 2016 Charging Scheme 16 July.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/446290/OPPC_2015_-_2016_Charging_Scheme_16_July.pdf)

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/446287/OCR\\_2015 - 2016 Charging Scheme 16 July.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/446287/OCR_2015_-_2016_Charging_Scheme_16_July.pdf)

The aim of the consultation was to formally seek views from stakeholders, such as offshore oil and gas operators and companies and bodies with an interest in environmental regulation, on the proposal for amendment of the charging powers under OPPC and OCR. The Department was also interested to hear whether there was a preference for any of the listed options or whether any alternative options might be proposed by respondents.

This report covers the consultation responses received and BEIS's response to them.

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# Summary of Consultation Responses

Responses to the consultation were received from four offshore operators, Chevron North Sea Limited, CNR International (U.K.) Limited, Total E&P UK Limited and WinterShall Noordzee, and from Oil and Gas UK the offshore industry representative body.

Three options were presented in the consultation document:

- Option 1: Continue current arrangements under which central government funds the cost of the services provided to industry under OCR and OPPC that are described in sections 3.9 and 3.10 of the consultation document via general taxation.
- Option 2: Introduce amendments to the current secondary legislation to charge for the services provided to industry under OCR and OPPC that are described in sections 3.9 and 3.10 of the consultation document. This was stated to be BEIS's preferred option.
- Option 3: Cease to provide advice to permit applicants, permit holders and operators.

Two consultees indicated that they would prefer Option 1. However, BEIS is of the opinion that Option 1 would not be in line with broader Government policy, which is to ensure that those companies directly benefiting from specific services pay for them. This is in order to relieve the burden on the tax payer and, in the case of environmental regulation, to ensure consistency with the 'polluter pays' principle of environmental law. Also, whilst BEIS recognises that Option 2 would bring about charges for industry, companies benefit from the advice provided by BEIS and it can save them time and money, for example by helping to improve the quality of applications and to ensure compliance.

The other three consultees, including Oil & Gas UK, indicated that they would prefer Option 2. This is also BEIS's preferred option as it will ensure companies directly benefiting from the regulatory services meet the cost associated with their provision, and it will be taken forward by BEIS for further development.

Option 3 was not supported, as it was recognised that providing advice aids the efficiency of processes such as permit applications, and a number of the consultees stated that advice provided by BEIS was valued highly by industry.

BEIS also asked whether consultees had any alternative options that they wished the Department to consider. In response to this, two consultees suggested providing updated guidance on OPPC and OCR to reduce the need for clarifications and enquiries by industry during permit applications. Specifically, they suggested that the existing guidance should be updated to cover current requirements, to incorporate the information currently included in Frequently Asked Questions (FAQ's) documents and to address commonly asked questions not included in the FAQs. It was also suggested that in the intervals between updates to the Guidance, the FAQ's documents could be updated to reflect any new information. One of the consultees suggested this as an alternative to Option 2, and the other as an addition to

Option 2. BEIS does not agree that updated guidance is a viable stand-alone alternative option, as guidance can never address every possible question that might arise and there would therefore still be occasions where companies would wish to seek advice. However, BEIS agrees that updated guidance would be useful and intends to take this idea forward as a supporting mechanism to improve the efficiency of the permitting processes.

### Queries Raised

A few queries were raised on the detail of how the additional proposed charges would work in practice. Once BEIS's policy is finalised, and before the changes to the Regulations enter into force, the guidance on the cost recovery for offshore functions would be updated and would try to address these queries.

Two consultees asked how the £50,000 per annum estimate for the anticipated additional cost to the offshore oil and gas industry was reached. This total was based on recorded staff time relating to OPPC and OCR advice that we do not currently charge for and are proposing to introduce powers to charge for. We then estimated the total time that would be likely to be spent providing such advice during a normal fiscal year, and the current charging rates were applied to that total to generate the annual estimate.

Two applicants requested that a definition of 'release' and 'discharge', as used in the consultation document, be provided. We can confirm that the definitions of 'release' and 'discharge' are as set out at regulation 2 of OPPC and OCR.

A number of additional comments were received that were outwith the scope of the consultation, for example around invoicing and the review of the charging regime as a whole, and it is not relevant to respond to these comments in this document.

# Next Steps

BEIS will now develop its proposal to charge a fee for certain regulatory services under OPPC and OCR, and will subsequently seek Parliamentary approval for proposed regulatory amendments in early 2017 with a view to them entering into force in the Spring of 2017. BEIS's guidance on cost recovery for offshore functions would be updated before the new regulations enter into force.

Updated guidance on OCR and OPPC will also be taken forward in 2017.

