

COST RECOVERY FOR OIL AND GAS CONSENTS

Consultation on further cost recovery for oil and gas drilling and production consents issued by DECC's Licensing Exploration and Development Branch

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General Information

Purpose of this consultation

Consultation on the proposed introduction of cost recovery in respect of oil and gas and carbon storage licensing consents, and offshore Pipeline Works Authorisations .

Issued: 24th October 2012

Respond by: 5th December 2012

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Consultation reference: URN D12/1314

How to respond:

We particularly seek responses to the questions posed, though further comments and evidence will also be welcome. Please send your response (preferably in electronic format) by 5th December 2012 to:

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Other versions of the document in Braille, large print or audio-cassette are available on request. This includes a Welsh version. Please contact us under the above details to request alternative versions.

Confidentiality and data protection:

Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the access to information legislation (primarily the Freedom of Information Act 2000, the Data Protection Act 1998 and the Environmental Information Regulations 2004).

If you want information that you provide to be treated as confidential please say so clearly in writing when you send your response to the consultation. It would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded by us as a confidentiality request.

We will summarise all responses and place this summary on our website at www.decc.gov.uk/en/content/cms/consultations/. This summary will include a list of names or organisations that responded but not people's personal names, addresses or other contact details.

Quality assurance:

This consultation has been carried out in accordance with the Government's Code of Practice on consultation, which can be found here:

<http://www.cabinetoffice.gov.uk/sites/default/files/resources/Consultation-Principles.pdf>

If you have any complaints about the consultation process (as opposed to comments about the issues which are the subject of the consultation) please address them to:

DECC Consultation Co-ordinator
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Executive Summary

In line with general Government policy, DECC has for several years charged on a cost recovery basis for services provided in the environmental regulation of the offshore oil and gas industry, such as analysis and approval of environmental statements and the issuance of chemical discharges permits etc.

DECC now proposes additionally to recover the costs of other services including consents issued under petroleum licences or offshore methane gas and carbon dioxide storage licences or for pipeline works authorisations issued under Part III of the Petroleum Act 1998. The Department will not be seeking to make a profit from these charges but merely recover its costs in carrying out those functions.

In relation to the charges proposed for, drilling consents, production; flaring; venting consent, licence assignments and PON6 approvals (methods for petroleum measurement) the resource input by DECC staff to provide approvals is considered to be fairly similar in all cases. A standard fee is therefore proposed which licensees would pay in all cases.

In the case of petroleum field development plan approvals and gas storage development plan approvals, pipeline works authorisations and CO₂ storage permits, however, the fixing of a single standard charge would entail cross-subsidisation of complex cases by simpler, straight forward cases. We therefore propose to adopt the approach taken by the recently introduced offshore decommissioning charging regime. This is a day charging system: the number of days spent on the consent by each of the officers involved would be estimated after the approval has been given, and the charge would then be calculated using a pre determined daily rate set out in Regulations.

Set out below is a more detailed explanation of the nature of the consents we propose to charge, a further explanation of the suggested methodology for calculating a fee, and indicative indications of what that fee may look like.

List of Questions raised in the Consultation**Consultation Question**

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| 1. | Q1. Do you have any comments or suggestions on any of the charging areas and suggested charging approach set out above? |
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Consultation Question

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| 2. | Q2. Do you have any comments or suggestions on the invoicing approach set out above? |
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Consultation Question

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| 3. | Q3. Can you tell us what the administrative burden, in monetary terms, on your organisation you foresee in complying with the regime so the burden can be quantified more fully for the purposes of One In One Out?. |
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Consultation Question

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| 4. | Q4. Do you have any comments on the Impact Assessment provided at ANNEX A? |
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Consultation Question

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|---|---|
| 5 | Q5. Do you have views on how LED could provide our services more efficiently and/or reduce our regulatory footprint to achieve this objective? |
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Introduction

1. The Offshore Environmental and Decommissioning (OED) Unit within Energy Development Unit (EDU) at DECC have for several years charged for the delivery activities they provide in the environmental regulation of the offshore oil and gas industry such as analysis and approval of environmental statements and the issuance of chemical discharges permits etc. This approach has allowed a direct relationship between the costs incurred by Government in its environmental regulatory oversight of the offshore oil and gas industry and the ability to correspondingly meet industries needs.

2. The Department does not currently charge Industry fees for consents issued under petroleum licences or offshore methane gas and carbon dioxide storage licences issued by the Licensing, Exploration and Development (LED) Branch within EDU, or for Pipeline Works Authorisations issued under Part III of the Petroleum Act 1998.

3. The Department now intends to charge Industry a fee for providing these functions rather than passing the whole cost onto the taxpayer. This will enable DECC to better weather constrained public expenditure allocations in the future and achieve more from the allocations agreed. In line with the Treasury guidance, the Department will not be seeking to make a profit from these charges but merely recover its costs in carrying out those functions.

4. The purpose of this six-week Consultation (closing on 5th December 2012) is to seek views of relevant stakeholders on these proposals. All comments received on this consultation will be taken into consideration during the process of finalising the approach to be taken. The Department would also be interested to hear whether you have preferred options of your own.

Consents proposed to be newly charged for

5. The consents or activities that EDU has considered suitable (with Treasury agreement) for the new charges are:

- Petroleum field development plan approvals and gas storage development plan approvals
- Drilling consents
- Pipeline works authorisations (including variations) and deposit consents
- Production; flaring; and venting consents
- Consents to licence assignments and associated operator approvals
- Petroleum Operations Notice 6 approvals (Methods for petroleum measurement)
- Carbon dioxide storage permit approvals

6. For more detail on these consent activities, a suggested charging approach, and some indicative rates for the fee levels see below.

Timing for the introduction of the new charges

7. Pending the conclusion of this consultation exercise, and Ministerial decision, it is proposed that the new charges will be brought into effect in the Financial Year of 2013-2014 and continue thereafter. Any consent under the new charging regime submitted for approval after 6th April 2013 will therefore be subject to the payment of a fee.

Legal basis for the introduction of charges

8. Section 188(1) of the Energy Act 2004 provides a power to make charges in relation to the Secretary of State's "relevant energy functions". Subsection (1)(a) refers to "services or facilities provided or made available by him in the carrying out of his relevant energy functions". This is drafted to cover staff and overhead costs involved in administering consents. Furthermore subsection (1)(d)(ii) allows charges to be made "for purposes which are incidental to, or otherwise connected with, the carrying out of any of those functions." These powers allow costs associated with the maintenance of the UK Energy Portal (see paragraph 44 for more detail about the Portal) to be recovered provided those costs are attributable to the Secretary of State's relevant energy functions.

More information on the consents that will be subject to the new charges including proposed charging methodology and indicative fee levels.

Field Development Plan and Gas Storage Development Plan approvals

9. The terms and conditions of an Oil and Gas Production or Gas Storage Licence prevent licence holders from installing facilities or producing hydrocarbons or storing gas without the authorisation of the Secretary of State. The Licence holder is required to submit for approval a Development Plan which sets out the proposed main elements of the production/storage facilities and their export routes. When considering whether to authorise a proposal, the Secretary of State will take into account whether the proposed project accords with the Government's policy objectives and whether the methods proposed comply with good industry practice.

10. Oil and Gas Field Development Plans (FDP's) and Gas Storage Development Plans approvals are specific consents to particular proposed developments, given individually to specific persons after consideration of the details of their application. Therefore no single LED time input can be pre-determined as each case is unique.

Suggested charging approach for Field Development Plan and Gas Storage Development Plan approvals (including addenda's)

11. The pre determination of a single time estimate for consenting to applications, which therefore sets a single charge, would unfairly mean the fee payer of a complex case would be

cross subsidised by the fee payer of a simple straight-forward case. We have therefore decided to replicate the approach taken by the newly introduced offshore decommissioning charging regime, the governing Regulation to which can be viewed here: <http://www.legislation.gov.uk/ukxi/2012/949/contents/made>

12. This approach will see that the amount of days, times the officers involved in the approval of a Development Plan by the Field Development consenting Team will be estimated after the approval has been given, and then using a pre-determined daily rate (set out in Regulations) the charge will be determined accordingly. Initial calculations indicate an average per day charge per technical officer of £500 with an average total working days effort of 33 days effort for a Central or Northern North Sea Field Development Plan progression and consent. This would indicate a fee of circa £16,500 for Development Plans in these areas. For the generally less complicated Southern North Sea Development Plans with an average total days time input of 21 days a fee of £10,500 is seen as being more typical. These examples are of course entirely indicative (and the daily rate still subject to final adjustment) and each Field Development Plan approval will vary according to the complexity and issues involved. The charging regime will also apply to Development Plan revisions/addenda in addition to new Development Plans.

13. It should also be noted that if work on a Development Plan is started, and the Department employs staff time on progressing the Plan only for the Plan to be withdrawn or abandoned by the Licensee, then an invoice will be issued to the Licensee to recover the Department's costs up to that point.

Drilling consent

14. The holder of an Oil and Gas, offshore methane gas or carbon dioxide Storage Licence apply to DECC for approval (under terms and conditions of the Licence), for consent to drill a well. Each application for a well consent is a unique application. No two wells are the same, either for geological, mechanical or financial reasons. The processing of the consent is determined by the particular application but it will involve a number of common factors. Other government departments and agencies are consulted and any resultant consent is a digitally signed, paperless consent.

Suggested charging approach

15. Discussions with the Teams involved in processing drilling applications reveal that there is a small (though predictable) variation in the time input to three categories of drilling consents. Therefore in order that the fee payer of a less time-consuming application is not cross subsidising a more time-consuming application, we are suggesting three standard fees as set out below.

	Staff cost	IT Costs (Portal)	Total
New Wells	£243	£404	£647
Side	£128	£404	£532

Tracks/Suspensions			
Recompletions/Re-entries	£102	£404	£506

Pipeline Works Authorisations

16. Under Part 3 of the Petroleum Act 1998 an authorisation is required for the construction and/or use of a "pipeline" in "controlled waters". For these purposes, controlled waters means the territorial sea adjacent to the UK and the sea in any area designated under section 1(7) of the Continental Shelf Act 1964.

17. The Petroleum Act 1998 (Specified Pipelines) Order 2011 provides that Part 3 of the Petroleum Act applies to specified pipelines or to pipelines of a specified description where the pipeline is used in connection with exploration for, or exploitation of, petroleum, or the importation of petroleum into the UK.

18. Pipeline Works Authorisations (PWA's) are granted individually to specific holders after consideration of the details of their application. Other government departments and agencies are also consulted before authorisation is given.

Suggested charging approach for Pipeline Works Authorisations

19. The pre determination of a single time estimate for consenting to applications, which therefore sets a single charge, would unfairly mean the fee payer of a complex case would be cross subsidised by the fee payer of a simple straight-forward case.

20. We propose to replicate the approach set out in Para 11 above for Development Plan approvals. This approach will see that the amount of days, times the officers involved in the PWA approval being estimated after the approval has been given, and then using a pre determined daily rate (set out in Regulations) the charge will be determined accordingly.

21. Initial calculations indicate an average per day charge per officer of £500 with an average total working days effort of 5 days per consent. This would indicate a fee of circa £2,500 for a full Pipeline Works Authorisation and, for the less complicated variation or deposit consent with an average of three hours technical review indicating a charge of £200 being more probable. This example is of course entirely indicative and each Pipeline Works Authorisation will vary according to the complexity and issues involved.

22. It should also be noted that if work on a Pipeline Works Authorisation is started and the Department employs staff time on progressing the case, only for the case to be withdrawn or abandoned by the company, then an invoice will be issued to the Licensee to recover the Department's costs up to that point.

Production; flaring ;venting consent

23. The terms and conditions of an oil and gas licence require EDU/LED's approval to the production of hydrocarbons for a given period of time and for a given volume. This is to ensure the effective exploitation of the nations hydrocarbon resources.

24. Additionally during the appraisal, commissioning and production phases of an oil and gas development, the flaring or venting of some methane gas is unavoidable. The Department requires that this flaring or venting should be kept to the minimum that is technically and economically justified. Licensees are required to apply for consent to flare and/or vent gas emitted at their oil and gas fields. The main purpose of this requirement is to ensure that gas is conserved where possible by avoiding unnecessary wastage during the production of hydrocarbons. Flaring and venting is also undesirable on environmental grounds.

25. The online oil and gas Portal is used in the consenting process which allows amendments and variations to be handled efficiently, a major benefit to the applicant for complex consents that often have to be replicated.

26. Each application and subsequent consent is unique and the stakeholder receives a permission which is specific to his activities.

Suggested charging approach Production; flaring; venting consent

27. The processing of the consent is determined by the particular application but it will involve a number of common factors. So the approach we suggest therefore is to calculate the daily rate for the Team, assess how many days the Team take to do that type of consent and make a calculation accordingly

28. *This has given us an indicative charge of:*

	Hour rate	Hours effort	Portal Cost	Total
Production consent	£40	10.00	£392	£792
Flare consent	£40	1.00	£392	£432
Vent consent	£40	1.00	£392	£432

29. The Department recognises that some consents are given for a very short period of time before a new longer term consent will need to be applied for and we will give thought as to what is fair to be done in terms of charging in these circumstances.

Licence assignments

30. Oil and Gas licences are typically held as joint ventures between a number of parties. These partners change at irregular, but frequent, intervals. EDU/LED staff consider each assignment

and if satisfied, will give consent to it. The companies submit the request via the oil and gas online "Portal" system. Each request is unique and DECC staff consider them individually.

Suggested charging approach for Licence assignment consents

31. We propose to charge a pre determined fee for each assignment where an assignment is a single deal (defined by reference to, perhaps, a single Sale and Purchase Agreement) and covering as many licences as are involved in it.

32. Assignments can be placed into two categories. The difference between the two categories is whether the licence assignment involves us needing to approve Operator change as well. The Operator is the company who will be responsible for operations and must therefore comply with certain technical capabilities and environmental management competence criteria that we require.

33. So the approach we propose to take is to determine the administration cost for the pure assignment alone and determine separately a charge to check the Operator competence criteria in those cases where it is needed. As the online Oil portal is employed in all cases the usage cost for the system is applied to both types of charge.

This has given us an indicative charge of:

	Assignment admin cost	Operator Cost	IT COST (Portal)	Total Charge
Assignment without operator consideration	£120	N/A	£789	£909
Assignment with operator consideration	£120	£629	£789	£1538

PON 6 approvals (Methods for petroleum measurement)

34. The holder of an Oil and Gas Licence apply to the DECC for approval (technically a "non-objection" under terms and conditions of the Licence) to metering apparatus to account for petroleum won and saved from the licensed area. This does not involve a site inspection by EDU/LED staff.

35. In some cases in order to assist the Licensee in establishing the appropriate method of measurement, a preliminary assessment of measurement requirements will enable the Licensee to complete the screening of options at an earlier stage and so minimise the effort in system evaluation. This procedure is intended to avoid the risk of the Licensee proceeding with a system design that is not acceptable to DECC.

36. It is the intention that this “non-objection” process will be part of the new fees and charges regime.

Suggested charging approach for metering system approval

37. The approach suggested with costing these approvals is by calculating the daily rate for an inspection officer, including an apportionment of the office overhead and then determining how many days that officer will take to process a “non objection”. The relevant Team have indicated that the process takes one day of their inspectors time to complete.

This has given us an indicative charge of:

	Day Rate	Days effort	Total
<i>PON 6 approval</i>	£460	2.00	£920.00

Carbon Dioxide “Storage Permit” approval

38. Under the terms and condition of an offshore Carbon Dioxide Appraisal and Storage Licence before carbon storage can start, the operator (the licensee) is required to submit a Storage Permit application setting out its storage proposals which must be in accordance with the Directive on geological storage of the carbon dioxide.

39. DECC employs technical staff (geologists) who will only consent to the Storage Permit application if they are satisfied that permanent containment of the CO₂ will be achieved. The operator must also submit as part of Storage Permit application a Monitoring Plan, a Corrective Measures Plan in the case of any leakages or significant irregularities and a Financial Security Agreement. In addition, as in the case of an oil and gas Field Development Plan, the Licence holder is required to submit for approval a Development Plan which sets out the proposed main elements of the production/storage facilities and their export routes.

Suggested charging approach for Carbon Dioxide “Storage Permit” approval

40. The pre determination of a single time estimate for consenting to applications, which therefore sets a single charge, would unfairly mean the fee payer of a complex case would be cross subsidised by the fee payer of a simple straight- forward case.

41. We again propose to replicate the approach set out in Para 11 above for Development Plan approvals. This approach will see that the amount of days, times the officers involved in the

Storage Permit approval being estimated after the approval has been given, and then using a pre-determined daily rate (set out in Regulations). The charge will be determined accordingly.

42. As the same staff who are involved with Field Development Plan approvals will also progress Carbon Dioxide Storage Permits we can determine a daily charge of £500 per technical officer involved. However it is too early to indicate a likely time input per approval as these types of consents are very new with relatively little experience of progressing them at the time of going to this consultation exercise.

DECC incurred costs included in all the fee calculations

43. The fee levels for each category will be calculated on a full costs basis in line with HM Treasuries “Managing public money” Guidance with the intention that there is no cross subsidisation between services or categories of service.

45. The costs that DECC has included in determining the level of the charge to be made for individual consents is the Pay (including ERNIC and Superannuation) of those staff directly involved in the consents (based upon days or hours typically devoted in assessing such cases. A “Departmental Overhead” is also applied on a pro rata basis to that member of staff which is DECCs payments on building services such as Rent; Security services and Building Maintenance.

46. Additionally, there will be IT costs to cover the maintenance and administration of the UK Energy Portal. The Portal provides a secure e-Government environment which supports the regulation of a wide range of activities within the Oil and Gas sector. These range from permitting processes for licensing, exploration, drilling, production and environmental consents to the monitoring of activities against permitted levels, and the issuing of financial decommissioning liabilities. This offers key benefits by providing a streamlined solution with minimal reliance on paper, significantly improved data quality, the ability to deliver legal digitally signed documents electronically, a complete on-line audit of the application and consent process and an on-line history of this process – which is extremely useful to industry as well as Government. In addition the opportunity to provide intra government and industry to government electronic interfaces has also realised efficiency gains.

47. These costs would be recovered in proportion to the share of effort invested in work areas directly related to the individual consent. However, these costs have only been attributed to the consents or activities that use the UK Energy Portal. These are: Drilling consents; Licence assignments; and offshore Production, Flaring and Venting consents. The IT Portal cost attributed for these various categories of consent have been weighted in consideration of the IT infrastructure used and the complexity of the transaction that each category experiences. The costs reflect the total cost of the provision of the relevant IT application. As noted above the systems are utilised to provide reference data about the relevant consent as well as for the actual transaction concerned.

Q1. Do you have any comments or suggestions on any of the charging areas and suggested charging approach set out above?

Suggested invoicing approach

48. It is the intention that the company who makes the application for a consent will be the company who is invoiced or make the payment to DECC online if that is the payment route provided (see below). This will be the case even where the applicant undertaking the consent request is doing so on the behalf of multiple companies on the Licence. It would then be for the applicant company themselves to make arrangements with other parties to collect their share of the charge in such a circumstance. In the case of Production, Vent, and drilling consents it is the intention that payment for these services will be facilitated through the online portal facility which is the facility through which these type of consents are applied for. In the case of Field Development Plans; Gas Storage Development Plans; Storage Permits and Pipeline Works Authorisations the calculation of the fee will be made prior to the issue of the Approval/Authorisation and the invoice issued in the post or by e-mail.

Q2. Do you have any comments or suggestions on the invoicing approach set out above?

Value Added Tax

49. The Treasury maintains details of goods and services, which if supplied by a government body are deemed to be business activities and therefore VAT is charged so as not to distort normal competition with a private sector supplier. As the provision by DECC of the consents/authorisations outlined in this consultation document do not fall within the scope of a business activity they are not within the scope of VAT. Therefore no VAT will be charged on any resulting fees regime from this consultation.

Cost incurred to industry in complying with the new regime for the purposes of the Government “One In One Out” (OIOO) policy.

50. Since the coalition Government came to office it has been policy that If the government needs to bring in new legislation that will impose a direct cost on businesses and voluntary organisations, it has to remove or modify an existing regulation of an equivalent cost. The aim of ‘one in, one out’ is to encourage government departments to use regulation only as a last resort.

50. It would therefore be helpful as part of this consultation exercise for consultees to inform DECC what the administrative burden on industry you see in complying with the regime so the burden can be quantified more fully for the purposes of One In One Out. Please note that this is not the cost of paying the charges themselves, but the admin burden in making those payments.

Q3. Can you tell us what the administrative burden, in monetary terms, on your organisation you foresee in complying with the regime so the burden can be quantified more fully for the purposes of One In One Out?.

Next Steps

51. The deadline for responses to this consultation is 5th December 2012.

52. Subject to the comments from this consultation, and Ministerial decision it may be the Government's intention to lay new regulations to charge fees in respect of LED consents before Parliament (after taking into account consultation responses) by end February 2013.

53. Decisions resulting from this consultation will be made public with a summary of views expressed and reasons for the decisions finally taken. The summary of responses, and the Government's response, will be published on the Department's website within three months of the close of this consultation. If you would like to be notified by e-mail when these are published please indicate this in your response.

54. The final version of the abovementioned regulations as laid before Parliament will be published on the Department's website. Our current intention is that the legislative proposals should come into force on 6th April 2013.

Impact Assessment (IA)

55. As outlined the attached Impact Assessment the anticipated net annual cost to the effected industry is likely to be £3.19m for the 2013/14 year. Further information including the Impact Assessment can be found at Annex A.

Q4. Do you have any comments on the Impact Assessment provided at ANNEX A?

56. In providing the services to industry which are the subject of the proposed new charging regime, LED is committed to continuously improving efficiency and effectiveness and we wish to reduce our regulatory footprint where we can.

For example, the Petroleum Act 1998 at present requires the Secretary of State to lay regulations setting out model clauses for licences, and the application fee as well as the application procedure companies must follow in applying for licences. Instead of being stipulated in Regulations, which means that amendments or updates have to wait until Parliamentary time can be found, these issues could be set out on the oil and gas website and updated as needed. This change would offer greater flexibility for DECC, and benefits for the oil and gas industry, and we propose to introduce it at a suitable legislative opportunity.

Q5. Do you have views on how LED could provide our services more efficiently and/or reduce our regulatory footprint?

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