



Department for
Business, Energy
& Industrial Strategy

A CHARGING SCHEME MADE UNDER REGULATION 8 OF THE OFFSHORE CHEMICALS REGULATIONS 2002 (AS AMENDED)

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Background

The Department for Business, Energy & Industrial Strategy's (BEIS's) Offshore Petroleum Regulator for Environment and Decommissioning (OPRED) seeks to secure full cost recovery for all relevant regulatory transactions relating to offshore oil and gas operations, gas unloading and storage operations and carbon dioxide storage operations.

The Offshore Chemicals Regulations 2002 (as amended) makes provision for the Secretary of State to recover the costs associated with matters under those Regulations from permit applicants, permit holders and operators. The fees must be set out in a charging scheme. The current charging scheme has been in place since 1st July 2021.

The BEIS OPRED hourly rate costs for specialist and non-specialist staff have recently been reviewed based on revised full economic staff costs, accommodation costs, IT costs and relevant consultancy costs.

Environmental specialists are technical staff who carry out the relevant functions of the Secretary of State and non-specialists are administrative staff.

Following that review, the BEIS OPRED hourly rates are to change and will come into force on the day after the date on which the Pollution Prevention and Control (Fees) (Miscellaneous Amendments) Regulations 2022 ("the Fees Regulations") are made in Parliament.

This document replaces the 2021 charging scheme. It incorporates the new hourly rates and explains the arrangements for invoicing and payment.

Guidance providing a detailed description of all the BEIS OPRED charging provisions and the cost recovery process is available at <https://www.gov.uk/guidance/oil-and-gas-fees-and-charges>.

The Offshore Chemicals Regulations 2002 (as amended)

The Offshore Chemicals Regulations 2002 (“the Regulations”) were introduced to implement OSPAR Decision 2000/2 on a Harmonised Mandatory Control System for the Use and Discharge of Offshore Chemicals.

The Offshore Chemicals (Amendment) Regulations 2011 were introduced to extend the provisions of the Regulations to allow the department to take enforcement action in the event of any unintentional offshore chemical release. They also extended information-gathering powers, so that information could be obtained from a wider range of persons and in relation to a wider range of incidents, simplified the permitting process for varying permits or transferring them to other operators and made minor amendments to the fee charging powers.

The Pollution Prevention and Control (Fees) (Miscellaneous Amendments) Regulations 2017 made further amendments to the fees under regulation 8 of the Regulations.

This revised charging scheme is made under regulation 8 of the Regulations.

Regulation 8 states:

8. (1) The Secretary of State may, in accordance with a charging scheme made by her for this purpose, charge permit applicants, permit holders and operators fees in respect of any of the matters to which this paragraph applies.
 - (2) The matters to which paragraph (1) applies are-
 - (a) an application for the grant or renewal of a permit;
 - (b) an application for the variation of a permit or the conditions to which it is subject, or a review of a permit and its conditions;
 - (c) a request for the Secretary of State’s consent to the transfer of a permit:
 - (ca) the revocation or surrender of a permit;
 - (d) the subsistence of a permit;
 - (e) the testing or analysis of substances;
 - (f) the validating of, or of the results of, any testing or analysis of substances;
 - (g) assessing how the environment might be affected by the release or discharge into it of any substances; and
 - (h) the provision of advice in respect of-
 - (i) an application or potential application for the grant or renewal of a permit;

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- (ii) an application or potential application for the variation of a permit or the conditions to which it is subject, or a review of a permit and its conditions;
- (iii) a request or potential request for the Secretary of State's consent to the transfer of a permit;
- (iv) the revocation or surrender of a permit;
- (v) the testing or analysis of substances;
- (vi) the validating of, or of the results of, any testing or analysis of substances; and
- (vii) assessing how the environment might be affected by the release or discharge into it of any substances,

but paragraph (1) only applies to the matters referred to in sub-paragraphs (e) to (g) and h(v) to h(vii) in cases where the testing, analysis, validating or assessing is in any way in anticipation of, or otherwise in connection with, the making of permit applications or is carried out in pursuance of conditions to which any permit is subject.

(3) A charging scheme made under this regulation shall be so framed that the fees and charges payable under the scheme are sufficient, taking one year with another, to cover such expenditure as may be incurred by or on behalf of the Secretary of State in connection with any of the matters to which paragraph (1) applies.

Description of the Scheme

Functions under the Regulations are administered on behalf of the Secretary of State by BEIS OPRED. The relevant chargeable functions are detailed above as 'matters'.

Specialist staff and non-specialist staff separately record the time taken undertaking the chargeable functions, for permit applicants, permit holders and operators and the individual offshore installations for which they are responsible.

The calculated hourly rate costs for specialist staff and the non-specialist staff will be applied to the total time spent undertaking the functions and used to calculate a total fee for each permit applicant, permit holder or operator, broken down to indicate the total fee for each offshore installation for which they are responsible.

The separate hourly rate costs for specialist staff and non-specialist staff that will be used to calculate the total fees from the day after the date on which the Fees Regulations are made in Parliament are:

- £201 for specialist staff; and
- £104 for non-specialist staff.

This means that the fees will be sufficient, taking one year with another, to cover such expenditure as may be incurred by or on behalf of the Secretary of State in relation to the functions detailed above.

Fee Recovery

Fees will be recovered by BEIS OPRED acting on behalf of the Secretary of State.

Permit applicants, permit holders and operators will be provided with a breakdown of the time spent by specialist and non-specialist staff on cost-recoverable activities. The breakdown will cover a specified period, but it is possible that it will contain costs relating to activities undertaken outside that period (for example, a submission received towards the end of one period, but the review not completed until the next period).

The breakdown will include information such as the name of the relevant company, installation or vessel, the location and, where appropriate, the reference number of any relevant permit issued under the legislation.

Separate entries will be provided for any relevant offshore inspections of named installations.

Separate entries will also be provided for any investigation activity, including costs relating to dealing with pollution incidents undertaken prior to the commencement of formal enforcement action, and for any cost-recoverable overseas visits.

Permit applicants, permit holders and operators can request separate invoices for different assets, providing they make their representations to BEIS OPRED within 30 days of receipt of the breakdown clearly detailing their request.

Where a purchase order or separate purchase orders is/are required to facilitate payment of an invoice or separate invoices, the purchase order number or numbers must also be submitted to BEIS OPRED within 30 days of receipt of the breakdown.

Invoices will generally be issued within five (5) working days of receipt of a purchase order number or numbers, or confirmation that a purchase order is not required. If no response to the breakdown is received, the invoices will generally be issued 30 days after submission of the breakdown. The invoices will detail the total amount(s) payable to cover fees for the period stated in the breakdown.

Payment will be due to BEIS OPRED within 30 days of the date of the invoice.

If any invoice is not paid, BEIS will actively pursue outstanding debts in accordance with its debt recovery procedures.

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