

Regulatory Triage Assessment	
Title of regulatory proposal	Offshore oil and gas environmental regulations: Fees
Lead Department/Agency	BEIS
Expected date of implementation	Spring 2017
Origin	Domestic
Date	February 2017
Lead Departmental Contact	Richard Brooks
Departmental Triage Assessment	Low-cost regulation (fast track)
Rationale for intervention and intended effects	
<p>In 2015 BEIS undertook a review of the current fee charging legislation and schemes for the environmental regulation of the offshore oil and gas industry¹. The purpose of the review was to assess whether existing arrangements were compliant with HMT guidelines on Managing Public Money and to identify whether new fees legislation was required in order to recover future costs associated with delivering services under new or amended regulations. As a result of this review, BEIS's Offshore Petroleum Regulator for Environment and Decommissioning introduced secondary legislation incorporating a new method of charging based on application of an hourly rate system and providing new powers to charge in relation to several environmental regulatory regimes. The new system has been operating since July 2015 but, following a further review, it has been identified that minor changes are required to the current secondary legislation to capture services provided to industry, which have not previously been charged for but reflect existing regulatory activity.</p> <p>BEIS therefore proposes to amend its secondary legislation to capture certain services provided to industry that it does not currently have the power to charge for. These are minor additions to BEIS's current powers to charge for environmental services provided to the oil and gas industry. To summarise, the proposed secondary legislation would provide powers to charge for:</p> <ol style="list-style-type: none"> 1. Assessments relating to discharge and providing advice under the Offshore Petroleum Activities (Oil Pollution Prevention and Control) Regulations 2005 2. Assessments relating to discharge and providing advice under the Offshore Chemicals Regulations 2002 3. Functions carried out under the Energy Savings Opportunity Scheme Regulations 2014 4. Recovery of costs from the Oil and Gas Authority for services provided by BEIS regarding the Offshore Safety Directive (Directive 2013/30/EU) and the Offshore Petroleum Licensing (Offshore Safety Directive) Regulations 2015 5. Monitoring compliance and providing advice regarding certain Commission Implementing Regulations for the EU's F-Gas regime <p>The Department was required by statute to undertake a consultation before making changes to the Offshore Petroleum Activities (Oil Pollution Prevention and Control) Regulations 2005 and Offshore Chemicals Regulations 2002. As set out in the consultation response, the proposed changes were broadly supported by industry.</p> <p>https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/572986/Annex_1_OCR_and_OPPC_changes_to_charging_regime_-_response_to_consultation_Final_version_071116.pdf</p>	

¹ The Offshore Oil and Gas Environment and Decommissioning Unit (OGED) in the Department for Business, Energy and Industrial Strategy (BEIS) carries out environmental regulation functions for the offshore oil and gas industry. Without the services provided the industry would not be able to continue to operate in UK waters.

The charges would be calculated according to the hourly rate set out in the Pollution Prevention and Control (Fees) (Miscellaneous Amendments and Other Provisions) Regulations 2015. This hourly rate applies to all offshore environmental regulatory services that BEIS charges for.

The services provided enable the oil and gas industry to undertake its operations in compliance with our regulations in a way that minimises the cost of compliance to the operator.

The intended effect of introducing powers to charge fees is to ensure that the costs of environmental regulatory services which are provided by BEIS to oil and gas operators are fully recovered from industry. Through the introduction of secondary legislation, the government will be able to recover costs associated with providing these regulatory services. The measures will relieve the burden on the taxpayer and ensure that those companies directly benefiting from the services pay for them, enabling compliance with HMT's guidelines on Managing Public Money..

Viable policy options (including alternatives to regulation)

Two main policy options have been considered:

- Option 1: The 'do nothing' option would constitute a continuation of current arrangements under which central government would fund the cost of the relevant regulatory functions from general taxation. This approach was ruled out as it would not achieve the policy objective.
- Option 2: Introduce secondary legislation that ensures BEIS has the necessary powers in place to recover its costs. This is the preferred option as it will ensure companies directly benefiting from the regulatory services meet the cost associated with their provision.

Initial assessment of business impact

For the purposes of this analysis, the counterfactual for estimating the net additional cost of introducing the secondary legislation is assumed to be the continuation of the current arrangements. Under current arrangements BEIS meets the costs of providing the relevant regulatory services which are ultimately funded through general taxation so there are no costs to businesses.

Based on historical data, the future annual cost of providing the relevant regulatory services is estimated at £312,000. Under the preferred option, business will bear the full cost of providing these services. In total, annual charges of £312,000 result in a NPV of -£2.91m (2016 prices, 3.5% real discount rate) to business over an appraisal period of ten years. These costs would currently be spread across the companies that receive benefits from the services provided and would take effect once secondary legislation is introduced, most likely in Spring 2017. While annual costs will change to some extent in line with the variable pattern of demand for services, the future costs are based on historical data and reflect years of experience so are not expected to vary significantly from the estimate of £312,000. It should also be recognised that the costs are very small relative to other costs and revenues from upstream oil and gas activities. The measures will relieve the burden on the taxpayer and ensure that those companies directly benefitting from the services pay for them.

There is not expected to be any incremental administrative burden to the companies as a result of paying the fees to BEIS relating to these changes. This is because BEIS will continue to issue invoices regularly to each company, which will reflect the total value of costs incurred across all statutory functions undertaken in the preceding months. There is an established process that industry follows in dealing with invoices; additional fees will be added to each invoice and not be billed separately.

The exact number of small or microbusinesses in the exploration or production of the UKCS is unknown. However, the costs of the proposals are not expected to fall disproportionately on

small businesses. Businesses of all sizes can participate in UK upstream (exploration and production) oil and gas activities in theory, but very few micro-businesses are likely to be affected as most would lack the requisite resources to participate in offshore work. If a small business becomes involved they would usually only be one of several co-venturers who would make an agreement among themselves governing existing and future operations, including the apportionment of operational costs and associated commercial benefits between the parties so that none of them would be solely responsible for meeting the full costs of the oil and gas operations. Small businesses choosing to participate on this basis would expect to face the same type of costs as other entrants and consequently an exemption from the legislation is not considered necessary or appropriate.

One-in, Three-out status

The proposed changes are considered out-of-scope of the One-In-Three-Out (OITO) rule under the “Fees and Charges” exemption. The proposal will not expand the scope of regulatory activity undertaken with respect to the range of environmental regulations and the fees will not go beyond cost recovery. The proposal is also consistent with government policy to move towards full cost recovery as set out in HMT’s Managing Public Money guidance.

For the reasons outlined above, there is not expected to be any incremental administrative burden for companies as a result of paying the fees to BEIS relating to the additional statutory functions that we propose to charge for.

Rationale for Triage rating

This measure is considered suitable for the fast-track appraisal route as the proposal as a whole is expected to be low-cost. The annual gross costs to business are valued at £312,000, less than the £1 million per annum gross cost used for the low-cost threshold.

Review Clause:

As a result of s.28(3)(a) of the Small Business Enterprise and Employment Act 2015, SIs which contain only “provision imposing, abolishing or varying any tax, duty, levy or other charge” are not subject to the requirement to contain a review clause. The relevant provisions of the SBEEA 2015 have been in place since 1 July 2015 so there was no review clause applied to BEIS’s 2015 Fees Regulations or BEIS’s 2016 Fees Regulations, which amended the 2015 Fees Regulations.

Departmental signoff Wendy Kennedy: Date: 20/01/2017

Economist signoff: Paro Konar-Thakkar Date: 20/01/2017

Better Regulation Unit signoff: Angela Rabess Date: 24/01/2017