

# Cost Recovery for Office For Nuclear Regulation (ONR) Charging Activities

## Introduction

This guide is intended to provide information to nuclear licence holders/licence applicants/potential licence applicants, generic design assessment requesting parties and others with an interest in how the nuclear cost recovery schemes operate. It explains how charges are calculated and invoiced and the process for handling queries and disputed invoices.

## Chargeable Activities

Where the Office for Nuclear Regulation (ONR), currently an Agency of the Health and Safety Executive (HSE), recovers the costs of its regulatory work, its policy and HM Treasury's guidance require recovery of the full cost of that work.

ONR cost recovery activities relate to the following:

- Nuclear regulatory licence activity.
- Generic design assessment of new nuclear reactors.
- Providing advice to potential licence applicants.
- Activity related to the enforcement of relevant statutory provisions.
- Nuclear Safety Research (NSR).
- Civil Nuclear Security (CNS) activities

In addition to the above, from 1<sup>st</sup> April 2014 ONR will also recover relevant costs for specific Radioactive Materials Transport Team (RMT) activities.

## Background to Chargeable Activity

ONR became an agency of the Health and Safety Executive (HSE) on 1 April 2011 in anticipation of the Energy Bill, which contained provisions to create ONR as a statutory nuclear regulator. On 18<sup>th</sup> December 2013, the Bill completed parliamentary process and achieved Royal Assent. This means that the Energy Bill is now the Energy Act 2013 and as a result, from 1<sup>st</sup> April 2014 ONR will be a public corporation, outside of HSE, with responsibility for regulating the nuclear industry.

## Nuclear Regulatory Licence

In Great Britain, the nuclear industry is regulated by the ONR as an agency of the Health and Safety Executive (HSE). HSE delegates responsibility for operation of the licensing system to HM Chief Inspector of Nuclear Installations (now the Chief Nuclear Inspector), a Director of the ONR.

HSE/ONR regulates the nuclear industry primarily through a licensing system established under the Nuclear Installations Act 1965 (as amended). All nuclear installations as defined in the Act require a licence from HSE/ONR. This licensing regime is wide in scope covering the structure and resourcing of licensees' organisations, design, construction, commissioning, operation and decommissioning of plants and sites. The regime involves not only consideration of day-to-day operations but also radioactive waste management and decommissioning policies, strategies and plans. These conditions define the key areas which encompass the management of safety and each licensee is required to demonstrate its arrangements for complying with these conditions.

The provisions of Section 24 of the Nuclear Installations Act 1965 (as amended) require HSE/ONR to recover its 'expenses' in charges to nuclear licensees and license applicants for its work in support of the licensing regime.

## **Generic Design Assessment of New Nuclear Reactors**

HSE/ONR and the Environment Agency (EA) have jointly developed a Generic Design Assessment (GDA) process for assessing nuclear power station designs. GDA is a structured, multi-step process, spread over several years, which allows the nuclear regulators to assess the safety, security and environmental implications of new designs before making an application to build a nuclear power station at a particular site.

Regulation 16 (1) of the Health and Safety (Fees) Regulations 2010 (Statutory Instruments 2010 No. 579) provide for HSE/ONR to recover costs, 'reasonably incurred by the Executive' in carrying out GDA work, through charges to requesting parties in advance of HSE/ONR receiving an application for a licence to build a new nuclear power station.

## **Provision of Advice to Potential Licence Applicants**

The Health and Safety (Fees) Regulations 2010, which came into force on 6 April 2010, allow HSE/ONR to recover costs 'reasonably incurred by the Executive' in providing advice to a potential applicant for a licence under section 1(1) of the 1965 Act on any matter relating to a potential application for a licence.

## **Relevant Statutory Provision**

The Health and Safety (Fees) Regulations 2010 allow HSE/ONR to recover a fee from licensees for any function conferred on the Executive, or the inspector by the 1974 Act, which relates to the enforcement of any of the relevant statutory provisions. The rationale for this is that high hazard sites require regular intervention by HSE/ONR through safety report assessment and regular inspection. Whilst a relatively small amount of inspector time is used to provide advice and cover the duty holder's compliance with wider health and safety regulations, this can be an indicator of a site's overall safety culture.

## **Nuclear Safety Research Levy**

Primarily, HSE/ONR has a duty to ensure that an adequate and balanced Programme of NSR continues in the UK. HSE/ONR uses its regulatory insights and interactions with the nuclear licensees to develop research strategies that ensure the research addresses relevant safety issues, contributes to safety standards and maintains important facilities and expertise. The NSR Programme is agreed each year, in consultation with HSE/ONR's key stakeholders.

The Nuclear Installations Act 1965, as amended by the Atomic Energy Act 1989, gives powers to HSE/ONR to recover the costs incurred, wholly or partially in connection with the carrying out of research at the direction of HSE/ONR, from the nuclear licensees.

## **Civil Nuclear Security (CNS)**

The Secretary of State, through CNS, acts as the security regulator for the civil nuclear industry under regulations made under the Anti-terrorism, Crime and Security Act 2001, as well as under the Energy Act 2004, the extant security provisions of the Nuclear Installations Act 1965 (as amended) and, in respect of nuclear material, the Import of Goods (Control) Order 1954.

As the Regulator CNS is responsible for preventing the theft of nuclear material (and, on civil licensed nuclear sites only, other radioactive material), preventing sabotage of nuclear facilities or nuclear material in transit, safeguarding sensitive nuclear technology and information, thereby helping to prevent nuclear proliferation, and safeguarding other protectively marked Government information held by the civil nuclear industry.

CNS regulates security activity in four distinct areas: Site Security; Transport Security; Information Security and Personnel Security.

- Site Security: Regulation of security measures for nuclear and other radioactive material and sensitive nuclear information at civil nuclear sites in the United Kingdom.

- Transport Security: Regulation of the movement of all civil nuclear material by road and rail throughout the UK and worldwide when carried on UK-flagged vessels.
- Information Security: CNS regulates the security of sensitive nuclear information, including any information relating to defence, national security or nuclear proliferation.
- Personnel Security: CNS provides a vetting service which conforms to the requirements of Regulations 9, 17(3) and 22(3) of Nuclear Industry Security Regulations 2003, and which is applied to all permanent employees and contractors working in the civil nuclear industry. CNS revalidates clearances at regular intervals.

## **Radioactive Materials Transport (RMT)**

The Radioactive Materials Transport team (RMT) joined HSE/ONR from the Department for Transport (DfT) in October 2011. At this time various “Competent Authority” functions under the Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2009 (CDG 2009), as amended, were delegated to the HSE/ONR by the Secretary of State.

From 1<sup>st</sup> April 2014, ONR proposes to recover the costs of those “Competent Authority” functions for which it is permitted to charge under regulation 27 of CDG 2009. These include the package approval functions that RMT carries out on request from design authorities in both the nuclear and non-nuclear sectors. Predominantly, this is for assessment work carried out by land transport (road and rail). Although this will be the first time that the regulation 27 charging powers have been used to recover package approval costs, the powers are already used by several other agencies for a range of cost recovery schemes.

ONR wishes to ensure fairness in the introduction and application of the charges. Package approval requests already ‘in the system’ in July 2013 will not be charged. Subsequent requests, received on or after 1 August 2013, will be charged for any part of the approvals process which remains to be completed after the 1 April 2014 start date (if all parts of the process are completed before the start date, the application in question will escape charging altogether).

More detail can be found in the Impact Assessment of the proposed cost recovery scheme for the Office of Nuclear Regulation (ONR)/Radioactive Materials Transport (RMT), IA No: HSE0076.

## **Methodology Used for Calculating Charges**

ONR calculates all charges in accordance with HM Treasury’s Managing Public Money and is subject to scrutiny from the National Audit Office.

Once ONR becomes a public corporation on 1<sup>st</sup> April 2014, it will no longer be able to reclaim VAT on the purchase of goods and services required in order to deliver its statutory function. This additional charge will be passed on to industry through the regulatory charges.

## **Nuclear Regulatory Licence, Generic Design Assessment of New Nuclear Reactors, Provision of Advice to Potential License Applicants and Activity Related to the Enforcement of Relevant Statutory Provision.**

The charges applied to nuclear licensees, licence applicants, GDA requesting parties and potential licence applicants, under the provisions of the NIA Act 1965 (as amended) and the Health and Safety (Fees) 2010 Regulations, are based on recovering the full cost of resources used in carrying out that activity. The total cost to be recovered extends beyond recovery of ONR Safety costs to recovery of the costs incurred on technical support contracts (TSCs) and an ONR per capita HSE corporate overhead charge.

The principle, underlying the cost calculation, is to determine the total amount of operational costs to be recovered (excluding the TSC<sup>1</sup> and Intermediate Level Waste<sup>2</sup> (ILW) Programme budgets) and then apportion the cost using the amount of ‘Direct’ ONR Safety inspector effort consumed by each site, licensee, licence applicant, requesting party, or

potential licence applicant. For example if a licensee consumes 10% of ONR Safety effort<sup>3</sup>, they will be charged 10% of the total costs incurred.

There are additional charges made for the recovery of any TSC or Intermediate Level Waste costs incurred by site, licensee, licence applicant, requesting party, or potential licence applicant. Contracts let for TSC or ILW advice are in the main licensee/requesting party/potential operator specific. Charges to licensees/requesting parties/potential operators therefore reflect actual costs incurred, plus a Programme management overhead charge.

### **Nuclear Safety Research (NSR) Levy**

The charges applied to nuclear licensees under the provisions of the NIA Act 1965 (as amended) are calculated by ONR. The principle underlying the cost calculation is to determine the total value of operational costs to be recovered (NSR Programme Costs, plus Programme management costs, net OECD Database receipts<sup>4</sup>) from nuclear licensees (at present EDF Energy Ltd. and Magnox Ltd.). Licensee charges are apportioned using a formula agreed with the nuclear industry and supplied by the ONR's Research Strategy Unit.

### **Civil Nuclear Security (CNS)**

The total charges recovered from the civil nuclear industry are ONR Security Administrative and Programme costs and an ONR per capita HSE corporate overhead charge (IT, accommodation, HR etc). ONR recovers 100% of ONR Security costs.

The principle underlying the cost calculation is to determine the total amount of operational costs for the Inspectorate, Transport and Security Vetting activities and the number of hours recorded on HSE/ONR's work recording database for each of these activities.

Security inspectorate charges are calculated using variable rates with Security transport using fixed rates. CNS in-house vetting charges are a fixed rate determined by the level of security clearance required. The Defence Business Services (DBS) carry out vetting activity for CNS under contract and these vets are re-charged to industry at cost plus a CNS management charge.

### **Radioactive Materials Transport (RMT)**

From 1<sup>st</sup> April 2014, ONR will be responsible for calculating and recovering 100% of ONR Transport expenses for those "Competent Authority" functions for which it is permitted to charge under regulation 27 of CDG 2009. It is anticipated that this will equate to recovery of up to 60% of the total RMT cost.

The principle underlying the cost calculation is to determine the total amount of operational costs relating to the "Competent Authority" functions through bookings made on HSE/ONR's work recording database and apportion the cost using the amount of 'Direct' effort charged to each licensee/site/customer. More detail can be found in the Impact Assessment of the proposed cost recovery scheme for the Office of Nuclear Regulation (ONR) / Radioactive Materials Transport (RMT), IA No: HSE0076.

The charges recovered relate to ONR Transport Administrative and Programme costs and an ONR per capita HSE corporate overhead charge (IT, accommodation, HR etc.). There will be additional charges made for the recovery of any TSC costs incurred. TSCs let will, in the main, relate to chargeable assessment work and will be package/licensee specific. Charges to licensees/sites will therefore reflect actual costs incurred, plus a Programme management overhead charge. Where contracts do relate to specific chargeable assessment work only and ONR cannot attribute cost directly to a specific site/customer, TSC cost will be charged out in the same way as other budgets and apportioned on the basis of direct effort.

## Administrative and Financial Arrangements

HSE/ONR is responsible for the administration of the charging scheme and will issue invoices, and receive payments for all chargeable activity. HSE/ONR will be responsible for debt recovery in the first instance. Invoices will identify total cost for the period and amount payable.

Invoices are issued quarterly within thirty working days of the end of an operational quarter (the quarters being April - June; July - September; October - December; and January - March). Payment will be due to HSE/ONR within thirty days of the date of invoice.

HSE/ONR will pursue outstanding debts and will actively do so in accordance with its own debt recovery procedures. HSE/ONR will prepare an annual Memorandum Trading Account which will be subject to scrutiny by HSE's Internal Audit and also externally by the National Audit Office.

## Queries and Disputes Procedure

Separate guidance on HSE's procedures for handling queries and disputes is available on the HSE Website.

## Contacts for Advice and Guidance

Should you need advice on the operation of the charging system or have a specific query, please telephone or write to HSE/ONR at:

Office for Nuclear Regulation Finance Team

Building 4S.3

Redgrave Court

Merton Road

Bootle

Liverpool L20 7HS

Telephone: 0151 951 3987

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<sup>1</sup> The TSC budget enables ONR to buy-in technical and scientific support from private consultancies, universities and others in order to fulfil its regulatory functions. This usually happens when the pressure for technical assessments exceeds our internal capacity, or when it is necessary to call on particular disciplines or facilities which are not available in-house.

<sup>2</sup> The ILW budget enables ONR to commission EA/SEPA to carry out work in relation to ILW conditioning proposals by its suitably qualified and experienced nuclear waste assessors and by consultants engaged by EA/SEPA. EA/SEPA charge HSE/ONR for this advice under a financial MoU with ONR recovering the costs from licensees.

<sup>3</sup> Inspector effort is recorded in a work-recording database and categorised as 'Direct' and 'Indirect' effort. Direct effort relates to time spent on work covering a specific site, licensee, license applicant generic design assessment, or potential operator. Direct effort accounts for most of an inspector's time. Indirect effort is time spent on specific HSE or ONR business, such as operational policy, management tasks, administration etc.

<sup>4</sup> OECD databank receipts are fees paid for access to the NEA databank.