



Environment Agency: enforcement and sanctions policy

Proposed updates to include the Clean Heat Market
Mechanism

Date: April 2025

Version: CHMM 1.0

We are the Environment Agency. We protect and improve the environment.

We help people and wildlife adapt to climate change and reduce its impacts, including flooding, drought, sea level rise and coastal erosion.

We improve the quality of our water, land and air by tackling pollution. We work with businesses to help them comply with environmental regulations. A healthy and diverse environment enhances people's lives and contributes to economic growth.

We can't do this alone. We work as part of the Defra group (Department for Environment, Food & Rural Affairs), with the rest of government, local councils, businesses, civil society groups and local communities to create a better place for people and wildlife.

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Background

In March 2023 the [Department for Energy Security & Net Zero \(DESNZ\) ran and responded to a consultation](#) which detailed their proposals for the introduction of a market-based mechanism to support the development of the UK market for low-carbon electric heat pumps, called the Clean Heat Market Mechanism (CHMM).

On 30 November 2023, the government's response to the consultation on the Clean Heat Market Mechanism was published, naming the Environment Agency as the CHMM Scheme Administrator and Regulatory Agency for all of the UK.

On 21 November 2024 DESNZ laid the [Statutory Instrument to create the Clean Heat Market Mechanism Regulations 2025 No. 81](#).

The Environment Agency will be responsible for ensuring companies comply with their obligations under the scheme and taking action where they do not (enforcement). This will include applying criminal and civil penalties set out in the Statutory Instrument.

The approach the Environment Agency takes in applying penalties is detailed in the [enforcement and sanctions policy](#). The enforcement and sanctions policy explains:

- the results we want to achieve
- the regulatory and penalty principles we uphold
- the enforcement and sanction options available to us
- how we make enforcement decisions
- the enforcement framework for the climate change schemes and the control of mercury regime

[Annex 2 of the enforcement and sanctions policy](#) of the enforcement and sanctions policy details the Environment Agency's approach to applying civil penalties in the climate change schemes. This annex will be amended to include a new section covering the requirements of CHMM.

[The Environment Agency previously consulted on the enforcement and sanctions policy](#) when it was introduced in 2018. Further consultations have been run on each occasion where the enforcement and sanctions policy has been amended following legislative changes.

For more information about the scheme, see the guidance on [Clean Heat Market Mechanism: who it applies to, annual tasks](#).

About this consultation

This consultation describes the proposed changes to the enforcement and sanctions policy to incorporate the CHMM. Small changes will be made to the main body of the enforcement and sanctions policy to include mention of the CHMM, and a new section,

section I, is proposed to be added to Annex 2 to detail our intended approach for applying civil penalties under the CHMM.

Under the CHMM Statutory Instrument, civil penalties may be applied for the following breaches of the scheme:

- failure to comply with the registration obligation
- failure to notify information (quarterly and annual fossil fuel boiler sales)
- notification of inaccurate information (annual notification of fossil fuel boiler sales)
- failure to maintain and make available records
- failure to make a notification (change of corporate structure)
- failure to make a payment
- failure to comply with an information notice

In each case, the Statutory Instrument details the maximum penalties that can apply to each breach. In some cases, these will include a daily penalty which accrues from the day following the breach until the breach is rectified or the maximum amount payable is reached, whichever occurs sooner.

The Statutory Instrument provides no discretion to the Environment Agency on 2 of the penalties: for failure to notify us of fossil fuel boiler sales, and failure to make a payment. In all other cases we have discretion to waive or modify the penalty.

The proposed additions to Annex 2, should be read in conjunction with the rest of the enforcement and sanctions policy, and are intended to make it clear how and when we will apply discretion, and if so, the reasons why.

What we are consulting on

This consultation focuses only on the addition of Section I to Annex 2 of the enforcement and sanctions policy. This is set out in the Appendix to this consultation.

We are consulting to seek your views on Section I only. In particular, we want your views on 2 aspects which are specific to CHMM, the:

- nature of the daily penalties and how these will be applied
- discretion applied to some penalties

We will consider your feedback and use this to refine our proposals. We will publish the summary of consultation response document on the consultation page. We will also publish the revised Annex 2 on GOV.UK.

Supporting documents to this consultation are available on the [Environment Agency's consultation website, Citizen Space](#).

What we are not consulting on

We are not consulting on:

- matters addressed by the 3 DESNZ consultations on the CHMM policy
- the Statutory Instrument which prescribes the breaches, including where we have discretion on our enforcement and the maximum penalties – this has been approved by Parliament
- the regulatory and penalty principles set out in sections 3 and 4 of the main body of the enforcement and sanctions policy, which remain unchanged
- our application of the criminal penalties under the CHMM (for provision of false or misleading information, and obstructing powers of entry), as we consider that the existing section 7.4 of the enforcement and sanctions policy meets the needs of CHMM without additional changes being needed

We will make minor changes to the main body of the enforcement and sanctions policy, by way of adding reference to 'CHMM' where relevant. In particular:

- section 1 (Introduction), we will add CHMM to the list of climate change schemes in the second from final bullet point
- section 5.2 (When we will prosecute an insolvent company or individual), we will change the final sentence to read, "Under CRC and CHMM, if the insolvent body is a company within a group, then the remaining solvent members of that group are responsible for its liabilities."
- section 7 (Enforcement options), we will add the CHMM Statutory Instrument to the list of orders which have introduced civil penalties

We will also make minor changes to the Introduction to Annex 2 to include the CHMM where relevant. In particular, we will add:

- CHMM to the bullet point list of climate change schemes in the first paragraph of the introduction
- section I and CHMM to the fourth paragraph of the introduction, which lists the sections contained within Annex 2
- section I to the seventh paragraph, which lists the sections in which discretionary penalties are described

The overall approach outlined in section A in Annex 2 is unchanged. We will make minor changes to section A of the enforcement and sanctions policy to add the CHMM where relevant. In particular, we will add:

- section I to the list detailed in Step 2 under "How the Environment Agency sets the penalty level"
- section I to the list detailed under, "Set the initial penalty amount: steps 1 and 2"

We are not consulting on these minor changes.

The consultation

How and when we will apply discretion

We are not changing our enforcement and sanctions policy with regard to the fundamental principles of applying discretion. We need to be clear in section I of Annex 2 of the enforcement and sanctions policy on which penalties we can apply discretion, and in those cases, our considerations for when and how we will do so.

How daily penalties will be applied and calculated

Several of the breaches for which penalties apply under the CHMM have daily penalties. These daily penalties start from the day after the breach has occurred and will continue until it is remedied or until the maximum penalty is reached, whichever is sooner.

Additional question

We would like to keep you informed about the outcomes of this consultation. For further information on privacy and how we will use your information please refer to the 'Responding to this consultation' section at the end of this consultation document.

If you would like to receive emails acknowledging your response and or telling you when we have published the summary of responses, please select from:

- yes, I would like to receive an email acknowledging my response
- yes, I would like to receive an email to let me know the consultation response document is published

If you have selected any of the above, please tell us your email address:

Can we publish your response? We will not include personal information.

This is a required question, please tick one of the following:

- yes
- no

If you answered no, please tell us why below as we will need to understand this when responding to any Freedom of Information requests.

To help us analyse and assess the consultation responses, we would like you to answer a few questions about:

- you or your organisation
- your business

Please tell us if you are responding as an individual or on behalf of an organisation or group. Select one answer only from the following options:

- a) responding as an individual
- b) responding on behalf of an organisation or group
- c) other

If you selected (b) 'responding on behalf of an organisation or group', please tell us the name of your organisation or group:

If you selected (c) 'other' please specify:

Please tell us how you found out about this consultation:

- from Environment Agency
- from another organisation
- through an organisation, group or trade association you are a member of
- press article
- social media, for example, Facebook
- through a meeting you attended
- other (please specify below)

Responding to this consultation

This consultation runs for 12 weeks from 22 April 2025 until midnight on 15 July 2025.

How to respond

You can view the consultation and supporting documents on Citizen Space, which is the Environment Agency's consultation website.

The consultation will close on 15 July 2025. We will consider all responses received by this date before finalising our proposals to submit for approval by government.

Please submit your response on Citizen Space, as this provides an easy and efficient way to respond. It will also help us to:

- gather all responses in one place
- summarise responses quickly and accurately
- reduce the cost of the consultation

Respond by email

If you prefer, you can submit your response by email using the response form, which you will find under the 'Related' section of the consultation on Citizen Space. Please email your response form with the subject header of 'CHMM ESP consultation' to ghgteam@environment-agency.gov.uk.

Ask for a copy of the consultation document

Contact us if you would like a copy of the consultation document sent to you. You can do this by contacting our Greenhouse gas helpdesk email ghgteam@environment-agency.gov.uk.

How we will use your information

After the consultation has closed, the Environment Agency will summarise responses in a consultation response document and make this publicly available on GOV.UK, unless you have specifically requested that we keep your response confidential.

We will not publish names of individuals or personal data, but we will publish the name of the organisation for those responses made on behalf of organisations.

We will not respond individually to responses.

In accordance with the Freedom of Information Act 2000, we may be required to publish your response to this consultation but will not include any personal information. If you have requested your response to be kept confidential, we may still be required to provide a summary of it.

Privacy notice

The Environment Agency would like to keep you informed about the outcomes of this consultation. If you would like to receive an email acknowledging your response and telling you when we have published the consultation response document, please provide your email address with your response.

By giving us your email address, you consent for us to email you about the consultation. We will keep your details until we have notified you of the response document publication.

We will not share your details with any other third party without your clear and full consent, unless required to by law.

You can withdraw your consent to receive these emails at any time by contacting us at: ghgteam@environment-agency.gov.uk.

The Environment Agency is the data controller for the personal data you provide. For more information on how we deal with your personal data please see our [personal information charter on GOV.UK](#).

You can email our Data Protection team: dataprotection@environment-agency.gov.uk.

Publishing our consultation response

We aim to publish our response to the consultation on GOV.UK within 12 weeks of this consultation closing and before we implement any changes. A link to this document will be added to the consultation page of Citizen Space.

Consultation principles

We are running this consultation in accordance with the guidance set out in the government's [consultation principles](#).

If you have any complaints about the way this consultation has been carried out (the process), please email consultation.enquiries@environment-agency.gov.uk.

Otherwise, for all queries relating to this consultation please email ghgteam@environment-agency.gov.uk.

Appendix

Section I: Clean Heat Market Mechanism (CHMM)

Section I explains our penalty setting approach for CHMM financial civil penalties. You must read this with [section A of the enforcement and sanctions policy](#). This explains our general approach for setting civil penalties for the climate change schemes.

I1: The types of CHMM civil penalties

Under The Clean Heat Market Mechanism Regulations 2025 (the CHMM Regulations), we may impose civil penalties for certain breaches. The penalty that applies to each breach where we can apply a civil penalty, is set out in the [Regulations 40 to 46 of the CHMM Regulations](#).

The penalty will be either a mandatory or discretionary penalty and may comprise one or more of the following:

- the initial penalty
- an additional sum calculated with a formula (in the case of failure to make a payment under [Regulation 28 of the CHMM Regulations](#))
- a daily penalty
- publication, which will be on GOV.UK

We can impose a daily penalty for the following breaches – failure to:

- comply with the registration obligation
- notify information (quarterly and annual fossil fuel boiler sales)
- make a notification of change of corporate structure
- comply with an information notice

The CHMM Regulations state a daily penalty starts to accrue on the day following the date on which the breach occurred. It stops accumulating on the date the person puts the breach right or the maximum amount payable is reached, whichever is sooner.

We will use the daily penalty:

- to encourage timely compliance
- if there is a continuing breach which can be put right

I2: When and how the Environment Agency will apply discretion to CHMM penalties

We may apply our discretion to the fixed sum and the daily penalty where the CHMM Regulations allow.

We are not permitted under the CHMM Regulations to apply discretion to the penalty for failure to notify us of fossil fuel boiler sales, or failure to make a payment.

In all other cases we will apply discretion in line with [section A of the enforcement and sanctions policy](#).

Where we decide that it is appropriate to impose a financial penalty, we will normally set the initial penalty amount at the statutory maximum. We will further apply our discretion in accordance with [steps 3 and 4 of section A of the enforcement and sanctions policy](#).

12.1: How the Environment Agency calculates the penalty amount

Paragraphs I3.1 to I3.7 explain how we calculate the maximum financial penalty for the breaches set out in the CHMM Regulations.

Question 1: Is section I2 clear on how we will apply discretion?

Question 2: Is section I2 clear about when we will apply discretion?

Question 3: Is section I2 clear about why we will apply discretion?

Please explain your answers.

I3: Civil penalties for CHMM

Where we apply the stepped approach, each paragraph states the breach and explains our normal 'nature of the breach' assessment and other enforcement position (if there is one) for that breach.

Our nature of the breach assessment may state that we will not normally impose a penalty (waive the civil penalty), or it will state the 'initial penalty amount' (as explained in section A). However, before we set the final penalty amount, we will take account of any representations we receive – see [section 6.2 of the enforcement and sanctions policy](#).

I3.1: Failure to comply with the registration obligation

Regulations 14(1) and 14(3) of the CHMM Regulations oblige undertakings and groups of undertakings respectively to provide certain information for the purposes of registering with the scheme. The timescales are detailed in [Regulation 14\(5\) and 14\(6\) of the CHMM Regulations](#). [Regulation 14\(7\) of the CHMM Regulations](#) imposes an ongoing obligation to notify the administrator of any changes to that registration information within 28 days of the date of the change.

[Regulation 40 of the CHMM Regulations](#) sets the maximum penalties for failing to do this – they are all of the following:

- an initial penalty of £5,000
- a daily penalty of £500 for each day the undertaking or group of undertakings remains in breach, beginning with the day after the date on which the obligation should have been complied with, up to a maximum of £45,000
- the publication penalty

Our nature of the breach assessment

We will normally impose a penalty for failure to register or a failure to notify us of any changes to the registration information. Registration is a key requirement of the CHMM, and failure to comply impacts the scheme's integrity. We will normally use the statutory maximum as the initial penalty amount.

13.2: Failure to notify information (quarterly and annual fossil fuel boiler sales)

Regulation 15 of the CHMM Regulations requires scheme participants and near-threshold suppliers to make a notification of their quarterly fossil fuel boiler sales, detailing separately those excluded due to being exported from the UK or installed in new-build premises. Regulation 16 of the CHMM Regulations require scheme participants to make a notification of their annual fossil fuel boiler sales, accompanied by supporting evidence for excluded boiler sales, and by a verifier's assurance report.

[Regulation 41 of the CHMM Regulations](#) sets the penalties for failing to do this – they are all of the following:

- an initial penalty of £50,000
- a daily penalty of £500 for each day the scheme participant or near-threshold supplier fails to make the notification under regulation 17 or 18, beginning with the day after the date on which the notification should have been made, up to a maximum of £45,000
- the publication penalty

Our penalty setting approach

We cannot apply our discretion to this breach because these penalties are mandatory. The amount of the penalty and our obligation to impose it are set out in the CHMM Regulations.

The only circumstance in which we would not impose a penalty for failure to notify information on boiler sales is where we consider that to do so would be incompatible with a right set out in the [European Convention on Human Rights](#), and therefore contrary to [section 6\(1\) of the Human Rights Act 1998](#).

As the scheme regulator, we may also make a determination of fossil fuel boiler sales as explained under [Regulation 20 of the CHMM Regulations](#).

13.3: Notification of inaccurate information (annual notification of fossil fuel boiler sales)

Where the notification of annual fossil fuel boiler sales made by a scheme participant as required under [Regulation 16 of the CHMM Regulations](#) is inaccurate, [Regulation 42 of the CHMM Regulations](#) sets the maximum penalties to be all of the following:

- an initial penalty of £50,000
- the publication penalty

Our nature of the breach assessment

If a scheme participant breaches this requirement, their low-carbon heat target will be incorrect. It may therefore significantly impact the integrity of the scheme. When a scheme participant discovers an error in its report, they must notify us and ensure that the revised target is met, whether by surrendering certificates or making a payment.

We will not normally impose a penalty where all of the following apply:

- it is a first breach of this requirement by the scheme participant
- they do not financially benefit from the error
- the error is corrected prior to the surrender deadline (1 October) following the scheme year

In all other circumstances, we will normally impose a penalty and will use the statutory maximum as the initial penalty amount.

We may also make a determination of fossil fuel boiler sales under [Regulation 20 of the CHMM Regulations](#).

13.4: Failure to maintain and make available records

Regulation 18 of the CHMM Regulations obliges scheme participants and near-threshold suppliers to maintain adequate, up-to-date records relating to their quarterly and annual boiler sales notifications for at least 7 years after the end of the scheme year to which they relate, and to make them available for inspection by the administrator at any time.

[Regulation 43 of the CHMM Regulations](#) sets the maximum penalties for failing to do this – they are all of the following:

- an initial penalty of £5,000
- the publication penalty

Our nature of the breach assessment

We will normally impose a penalty for this breach. We will normally use the statutory maximum as the initial penalty amount. We audit boiler sales notifications and will require scheme participants and near-threshold suppliers to provide records so that we can confirm the information on which the scheme is based is correct.

13.5: Failure to make a notification (change of corporate structure)

Regulation 21(3) of the CHMM Regulations obliges scheme participants and near-threshold suppliers to notify us within 28 days of details of changes to their corporate group, and how certificates held by the group are to be apportioned amongst the newly constituted group members. Regulation 21(4) of the CHMM Regulations obliges scheme participants to notify us of how fossil fuel boiler sales and low-carbon heat targets are to be apportioned.

[Regulation 44 of the CHMM Regulations](#) sets the maximum penalties for failing to do this – they are all of the following:

- an initial penalty of £5,000
- a daily penalty of £500 for each day that the scheme participant or near-threshold supplier fails to comply with the requirements of regulation 21(3) or (4), beginning with the day after the date on which the notification should have been made, up to a maximum of £45,000
- the publication penalty

Our nature of the breach assessment

The success of the scheme rests upon the regulator having an accurate knowledge of the make-up of the corporate groups subject to the CHMM Regulations, together with how certificates, fossil fuel boiler sales and low-carbon heat targets are to be apportioned amongst the groups in the event of any changes.

We will not normally impose a penalty where both of the following apply:

- the change to the group does not directly impact upon the scheme, because the undertakings involved in the change do not provide relevant fossil fuel boilers or heat pumps onto the UK market
- the notification of the change is made prior to the end of the scheme year

In all other circumstances, we will normally impose a penalty and will use the statutory maximum as the initial penalty amount.

13.6: Failure to make a payment

Regulation 28 of the CHMM Regulations, obliges a scheme participant which has insufficient certificates to account for its low-carbon heat target to make a payment before a given date, of a defined amount in respect of each unit of its low-carbon heat target which is unaccounted for.

[Regulation 45 of the CHMM Regulations](#) sets the penalties for failing to do this – they are all of the following:

- a penalty of £4,000 in respect of each unit of the scheme participant's low-carbon heat target which is unaccounted for and in respect of which a payment has not been made

- the publication penalty

Our penalty setting approach

We cannot apply our discretion to this breach because it is mandatory. The amount of the penalty and our obligation to impose it are set out in the CHMM Regulations.

The only circumstance in which we would not impose a penalty for failure to make a payment is where we consider that to do so would be incompatible with the right to a fair trial set out in the [European Convention on Human Rights](#), and therefore contrary to [section 6\(1\) of the Human Rights Act 1998](#).

I3.7: Failure to comply with information notice

Regulation 32 of the CHMM Regulations authorises us to serve an information notice on a person requiring the provision of specified information, within a stated form and timescale.

[Regulation 46 of the CHMM Regulations](#) sets the maximum penalties for failing to meet the requirements of the notice – they are all of the following:

- an initial penalty of £5,000
- a daily penalty of £500 for each day that the person fails to comply with the requirements of the information notice, beginning with the day after the date by which the requirements of the information notice should have been complied with, up to a maximum of £45,000
- the publication penalty

Our nature of the breach assessment

We will normally impose a penalty for this breach. We will normally use the statutory maximum as the initial penalty amount. Not complying with a request for information impacts the integrity of the scheme.

Question 4: Is section I3 clear about when CHMM daily penalties will be applied?

Question 5: Is section I3 clear about how the CHMM daily penalties are calculated?

Question 6: Is section I3 clear about when the CHMM daily penalties start to accrue?

Please explain your answers.

I4: Procedure for imposing penalties

Our general procedure for imposing penalties is set out in the main body of the enforcement and sanctions policy.

The CHMM Regulations state a daily penalty starts to accrue on the day following the date on which the breach occurred. It stops accumulating on the date the person puts the breach right or the maximum amount payable is reached, whichever is sooner.

Once we have determined the total penalty (fixed sum and daily penalty amount) we will serve a Notice of Intent. At this point, the recipient of the notice will be given a period of time of 28 working days to make representations.

After which, we will consider any representations received and set the final penalty amount if any and the date by which any penalty must be paid.

Question 7: Do you have any other comments or suggestions on how we might improve section I?

Please give details and explain your suggestions.

Would you like to find out more about us or your environment?

Then call us on

03708 506 506 (Monday to Friday, 8am to 6pm)

Email: enquiries@environment-agency.gov.uk

Or visit our website

www.gov.uk/environment-agency

incident hotline

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0345 988 1188 **(24 hours)**

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Environment first

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