EXPLANATORY MEMORANDUM TO

THE MARINE LICENSING (REGISTER OF LICENSING INFORMATION) REGULATIONS 2011

2011 No. 424

1. This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This instrument specifies the information that the Secretary of State must hold on a public register of (a) applications for licences under Part 4 of the Marine and Coastal Access Act 2009, (b) licences granted and (c) enforcement action taken in respect of offences under that Part of the Act.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Context

4.1 Part 4 of the Marine and Coastal Access Act 2009 ('the 2009 Act') makes provision for a new marine licensing system. Section 66 of the Act sets out a number of 'licensable marine activities', covering various activities such as certain deposits at sea, the use of vehicles, vessels etc to removals of objects from the seabed, dredging and construction works. The 2009 Act makes it an offence to carry out a licensable marine activity without a licence (unless the activity is exempted from the need for such a licence). Licences are granted by the 'appropriate licensing authority' (defined in section 113, and comprising either the Secretary of State or one of the devolved administrations depending on the area and the type of activity). This instrument is being made by the Secretary of State as licensing authority (it is understood that each of the devolved administrations intend to make their own regulations relating to the register for which they are the appropriate licensing authority). Part 4 will replace Part 2 of the Food and Environment Protection Act 1985 (except in the Scottish inshore region) and Part 2 of the Coast Protection Act 1949. It will also remove the need for a separate consent under the Electronic Communications Code.

4.2 Section 101 of the 2009 Act specifies that each licensing authority must maintain a public register of licensing and enforcement information. Section 101 also specifies that the register must be kept in accordance with regulations made by the relevant licensing authority.

5. Territorial Extent and Application

5.1 This instrument extends to all of the United Kingdom.

5.2 The instrument applies wherever the Secretary of State is the licensing authority under Part 4 of the 2009 Act. Under section 66 of the Act, specified activities are licensable in the UK Marine Licensing Area which covers all UK marine waters apart from Scottish inshore waters. In addition certain activities are licensable wherever carried out if they are carried out by British vessels, vehicles, aircraft, marine structures of floating containers or if the vessels etc have been loaded in the UK.

5.3 The appropriate licensing authority is defined in section 113 of the Act. Licensing in Welsh inshore waters, Northern Ireland inshore waters and Scottish offshore waters has been devolved except for the reserved matters specified in that section. Everywhere apart from where responsibility has been devolved, the Secretary of State is the licensing authority.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 The proposals in the instrument were developed from the public register requirements that previously applied to licences under Part 2 of the Food and Environment Act (FEPA) 1985 (as specified in the Deposits in the Sea (Public Registers of Information) Regulations 1996 (S.I. 1996/1427)). However, more activities are licensable under Part 4 of the 2009 Act than under FEPA, and the register requirements of the 2009 Act are different. The public register will, therefore, necessarily have a wider scope.

7.2 The Secretary of State intends to delegate most of the Secretary of State's licensing functions to the Marine Management Organisation (apart from licensing functions relating to the oil and gas sector). This will include functions relating to the register. In practice, the Marine Management Organisation will keep the largest part of the register while the Secretary of State of Energy and Climate Change will keep that part of the register that covers oil and gas-related licences.

8. Consultation outcome

8.1 The Government consulted on a draft of the regulations from 21st July to 13th October 2010 as part of a consultation on the secondary legislation which is needed to commence Part 4 of the 2009 Act. There were 39 respondents who commented on the public register. The majority agreed that the draft instrument provided for an appropriate level of detail. The main issues raised were about how the register would be operated – e.g. to secure commercial confidentiality or arguing that the large size of some documents should not preclude them from publication on a website or the format of data held on the register. We amended the instrument after consultation to specify that latitude and longitude data should be held in the standard (WGS 1984)

format. Other issues will be addressed administratively and do not require amendment to the regulations.

9. Guidance

9.1 The Department for Environment, Food and Rural Affairs will publish combined guidance on this and the other legislation needed to bring Part 4 of the 2009 Act into effect. The Department of Energy and Climate Change will produce supplementary guidance for oil and gas-related applications.

10. Impact

10.1 An Impact Assessment has not been prepared on this instrument because it has no new impact on business, charities or voluntary bodies. However, an Impact Assessment has been produced on the marine licensing system introduced under Part 4 (of which this instrument forms part). This will be published alongside the Explanatory Memorandum on www.legislation.gov.uk.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The Marine Management Organisation's performance in carrying out its licensing responsibilities is subject to a Service Level Agreement with Defra. This will set out performance measures and the process for monitoring and reviewing the extent to which the organisation has met its targets.

13. Contact

13.1 Sean Ryan at the Department for Environment, Food and Rural Affairs, Tel: 0207 238 4896 or email: sean.ryan@defra.gsi.gov.uk can answer any queries regarding the instrument.

Title:	Impact Assessment (IA)
Marine Licensing Impact Assessment	**IA No:** Defra 1008
Lead department or agency: Department for Environment Food and Rural Affairs	**Date: 25/11/2010**
Other departments or agencies:	**Stage:** Final
	Source of intervention: Domestic
	Type of measure: Secondary legislation
	Contact for enquiries: Haroona Chughtai 0207 238 5143

Summary: Intervention and Options

What is the problem under consideration? Why is government intervention necessary?

Licensing of marine activities has developed piecemeal over a number of years. Under the current set of arrangements applicants sometimes have to deal with more than one body, the process is sometimes more cumbersome than necessary, systems for resolving potential conflicts early in the licensing process are variable and there is no transparent appeals mechanism. Rationalisation and improvements to marine licensing is therefore necessary to reduce uncertainty for applicants, be more efficient for applicants and regulators and fairer for applicants.

What are the policy objectives and the intended effects?

The overall objectives of the new marine licensing system are:

1) to continue to regulate sustainable development in the marine environment effectively, allowing sensible and necessary development to go ahead in a manner that minimises its adverse impacts on the environment, human health and other legitimate uses of the sea.
2) to make the system more streamlined, transparent and effective, reducing uncertainty and increasing fairness and confidence in the system.

What policy options have been considered? Please justify preferred option (further details in Evidence Base)

A public consultation launched in July 2009 sought views on what improvements should be made to the existing system of marine licensing. It asked a number of specific questions about possible approaches to licensing and the decision-making process, the basis for making appeals against licensing decisions and the basis for making decisions on exemptions from the need for a marine licence. Taking account of responses to that consultation, a further consultation was carried out on proposals envisaging a more streamlined system that focuses resource according to risk from the outset, an independent appeals mechanism and a revised scope that brings maintenance dredging within, and ensures low risk activities remain outside, licensing. Respondents to the consultation generally agreed that the proposals were improvements and so the government intends to implement them, this is therefore the option examined in this IA .

When will the policy be reviewed to establish its impact and the extent to which the policy objectives have been achieved?	It will be reviewed 04/2014
Are there arrangements in place that will allow a systematic collection of monitoring information for future policy review?	Yes

SELECT SIGNATORY Sign-off For consultation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:..... Date:.....

Summary: Analysis and Evidence

Policy Option 1

Description:

Proposed changes to marine licensing included in the consultation document July 2010

Price Base Year 2010	PV Base Year 2010	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: 1.9	**High:** 26.5	**Best Estimate: 12.8**

COSTS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	N/A	1	N/A	**N/A**
High	N/A		N/A	**N/A**
Best Estimate	£0.3m		£0.6m	**£4.9m**

Description and scale of key monetised costs by 'main affected groups'

Transition costs to MMO to develop guidance, IT systems and application forms and train officers (£0.3m) Increased costs to MMO and industry at the pre-application stage -offset by savings at application stage so cost neutral overall . Costs to MMO (transitional £12k, annual £42K), industry (annual £42k) and the planning inspectorate of administering appeals annual cost £52k).

Other key non-monetised costs by 'main affected groups'

The costs of any operational changes associated with licensing maintenance dredging are not quantified and no information was provided on this during consultation. The MMO will work with stakeholders in the period up to April 2012 to develop a streamlined licensing process for such activities. The need for operational changes will be considered as part of that process – they are only likely if the activities have a detrimental effect on water quality or protected sites.

BENEFITS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	N/A	1	£0.9m	**£6.7m**
High	N/A		£4.2m	**£31.4m**
Best Estimate	0		£2.4m	**£17.7m**

Description and scale of key monetised benefits by 'main affected groups'

Annual cost saving to MMO (£40k) from: fewer inquiries, the enhanced pre-application stage reducing work at the application determination stage and from the consolidation of minerals dredging licences. Cost saving to industry (£501k - £801k) largey from reduced Environmental Impact Assessment costs (offset by £152k - £379 extra costs form licensing maintenance dredging for the first time).

Other key non-monetised benefits by 'main affected groups'

Clearer, simpler and more consistent licensing system. Potential for avoiding costs on unsuccessful applications. Availability of appeal to independent body means the system is fairer for applicants. The environmental benefits resulting from operational changes for maintenance dredging licences.

Key assumptions/sensitivities/risks **Discount rate (%)** 3.5

Most of the main assumptions are about estimating the change in staff time required by the new systems. The most significant uncertainty is about the extent to which businesses will be able to start projects earlier and the benefit from doing so.

Impact on admin burden (AB) (£m):			Impact on policy cost savings (£m):	In scope
New AB: N/A	**AB savings: N/A**	**Net: N/A**	**Policy cost savings: N/A**	No

Enforcement, Implementation and Wider Impacts

What is the geographic coverage of the policy/option?			Other - See evidence base		
From what date will the policy be implemented?			01/04/2011		
Which organisation(s) will enforce the policy?			Marine Mangagement Organisation		
What is the annual change in enforcement cost (£m)?			Increase £0.2m		
Does enforcement comply with Hampton principles?			Yes		
Does implementation go beyond minimum EU requirements?			N/A		
What is the CO_2 equivalent change in greenhouse gas emissions? (Million tonnes CO_2 equivalent)			**Traded:** N/A	**Non-traded:** N/A	
Does the proposal have an impact on competition?			No		
What proportion (%) of Total PV costs/benefits is directly attributable to primary legislation, if applicable?			**Costs:** N/A	**Benefits:** N/A	
Annual cost (£m) per organisation (excl. Transition) (Constant Price)	**Micro** 0.00001	**< 20** 0.00001	**Small** 0.00001	**Medium** 0.00001	**Large** 0.00001
Are any of these organisations exempt?	No	No	No	No	No

Specific Impact Tests: Checklist

Set out in the table below where information on any SITs undertaken as part of the analysis of the policy options can be found in the evidence base. For guidance on how to complete each test, double-click on the link for the guidance provided by the relevant department.

Please note this checklist is not intended to list each and every statutory consideration that departments should take into account when deciding which policy option to follow. It is the responsibility of departments to make sure that their duties are complied with.

Does your policy option/proposal have an impact on…?	**Impact**	**Page ref within IA**
Statutory equality duties[1] Statutory Equality Duties Impact Test guidance	No	16/17
Economic impacts		
Competition Competition Assessment Impact Test guidance	No	15
Small firms Small Firms Impact Test guidance	No	15
Environmental impacts		
Greenhouse gas assessment Greenhouse Gas Assessment Impact Test guidance	No	15
Wider environmental issues Wider Environmental Issues Impact Test guidance	Yes	16
Social impacts		
Health and well-being Health and Well-being Impact Test guidance	No	16
Human rights Human Rights Impact Test guidance	No	16
Justice system Justice Impact Test guidance	No	16
Rural proofing Rural Proofing Impact Test guidance	No	16
Sustainable development Sustainable Development Impact Test guidance	Yes	16

[1] Race, disability and gender Impact assessments are statutory requirements for relevant policies. Equality statutory requirements will be expanded 2011, once the Equality Bill comes into force. Statutory equality duties part of the Equality Bill apply to GB only. The Toolkit provides advice on statutory equality duties for public authorities with a remit in Northern Ireland.

Evidence Base (for summary sheets) – Notes

Use this space to set out the relevant references, evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Please fill in **References** section.

References

Include the links to relevant legislation and publications, such as public impact assessment of earlier stages (e.g. Consultation, Final, Enactment).

No.	Legislation or publication
1	Consultation on marine licensing cost recovery:
2	2010 consultation: http://www.defra.gov.uk/corporate/consult/marine-licensing-system/index.htm
3	July 2009 consultation: http://www.defra.gov.uk/corporate/consult/marine-bill/
4	Marine and Coastal Access Act 2009: http://www.opsi.gov.uk/acts/acts2009/pdf/ukpga_20090023_en.pdf
5	Marine and Coastal Access Act 2009 Impact Assessment: http://www.defra.gov.uk/environment/marine/documents/legislation/marine-ia-0410.pdf
6	DCLG (2006): Consultation Paper on Draft Marine Minerals Dredging Regulations and Procedural Guidance, Department for Communities and Local Government, available from www.communities.gov.uk
7	Frontline (2007) *Survey to Assess the Impact of Marine Bill Proposals on Marine and Coastal Developers,* Final report for Defra, November 2007
8	RPA (2006) *Costs of existing marine management regimes and costs of ambiguous or unclear requirements for new developments in the marine area.* Risk & Policy Analysts Ltd et al Final report for Defra, November 2006

Evidence Base

Ensure that the information in this section provides clear evidence of the information provided in the summary pages of this form (recommended maximum of 30 pages). Complete the **Annual profile of monetised costs and benefits** (transition and recurring) below over the life of the preferred policy (use the spreadsheet attached if the period is longer than 10 years).

The spreadsheet also contains an emission changes table that you will need to fill in if your measure has an impact on greenhouse gas emissions.

Annual profile of monetised costs and benefits* - (£m) constant prices

	Y_0	Y_1	Y_2	Y_3	Y_4	Y_5	Y_6	Y_7	Y_8	Y_9
Transition costs	0.3	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Annual recurring cost	0.0	0.2	1.0	0.5	0.5	0.5	0.5	1.0	0.5	0.5
Total annual costs	0.3	0.2	1.0	0.5	0.5	0.5	0.5	1.0	0.5	0.5
Transition benefits	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Annual recurring benefits	0.0	0.9	1.6	2.3	2.6	2.6	2.6	2.9	2.9	2.9
Total annual benefits	0.0	0.9	1.6	2.3	2.6	2.6	2.6	2.9	2.9	2.9

* For non-monetised benefits please see summary pages and main evidence base section



Microsoft Office Excel Worksheet

Evidence Base (for summary sheets)

Problem under consideration

1. Licensing of marine activities has developed piecemeal over many years. Under the current set of arrangements applicants sometimes have to deal with more than one body, the process is sometimes more cumbersome than necessary, systems for resolving potential conflicts early in the licensing process are variable and there is no transparent appeals mechanism.

Rationale for intervention

2. The measures aim to improve and simplify existing systems for licensing marine development activities. The rationale for consenting in the first place is that, in the absence of control, environmental externalities would prevent efficient allocation of resources leading to market failure. Given that the existing systems have developed in a piecemeal way with the problems outlined above, reform is necessary to reduce uncertainty for applicants, unnecessary costs and be more fair for applicants. The new system will help deliver sustainable development by ensuring that the same considerations are applied to a range of activities. Decisions will in future be made in accordance with the sustainable development guidance issued to MMO and marine plans rather than the factors that have been developed historically for each system.

Policy objective

3. The overall objectives of the new marine licensing system are:

1) to continue to promote sustainable development in the marine environment effectively, allowing sensible and necessary development to go ahead in a manner that minimises its adverse impacts on the environment, human health and other legitimate uses of the sea.
2) to make the system more streamlined, transparent and effective, reducing costs and uncertainty and increasing fairness.

Description of options considered

4. Part 4 of the Marine and Coastal Access Act provides for a new system of marine licensing. The underlying purpose is to simplify the existing system of licences. As these measures are about making changes to an existing system rather than introducing new regulation, no consideration has been given to other options such as alternatives to regulation. A public consultation during July-September 2009 invited views on different approaches giving effect to these provisions and a further consultation in July 2010 sought views on the Government's firm proposals. Following consultation the government has decided to introduce the measures and these are presented as option 1 below. A do nothing option is presented as a baseline against which to compare the measures. These two options are described below.

Do nothing option

5. The purpose of considering a 'do nothing' option is so that the counterfactual or baseline against which the measures are assessed is clear, enabling consideration of whether the new measures are genuinely improvements on the current situation. Doing nothing means not introducing the changes proposed to the licensing system. It assumes the world would otherwise continue; so, the licensing system would continue in its current shape against a backdrop of any wider developments such as change in the economy, environmental change and any wider policy change. In order to consider the effects of these measures in isolation of the other provisions in the MCA Act (such as marine

planning), those other provisions are not included in the counterfactual. A later section of the evidence base – Interactions with other MCA Act provisions – considers ways in which the licensing system is interdependent with these other provisions.

6. Some key features of the counterfactual would be:

- Consents are issued under several regimes: Part 2 of the Food and Environment Protection Act 1985 (hereafter FEPA), Part 2 of the Coast Protection Act 1949 (hereafter CPA), the Environmental Impact Assessment and Natural Habitats (Extraction of Minerals by Marine Dredging) Regulations 2007, the Marine Works (Environmental Impact Assessment) Regulations 2007 (as amended) and the Electronic Communications Code (that covers certain submarine cables)
- Each of these regimes have different application processes with different emphasis on resolving conflicts early in the process
- The scope of activities covered by consenting regimes varies from regime to regime
- Representations can generally be made but appealing decisions to an independent body is not available across all the current licensing arrangements
- Other expected future policies that may have an impact on marine consenting such as the Marine Strategy Framework Directive are implemented. However, the other provisions of the MCA Act are not implemented, some of which will have a direct effect on licensing decisions such as the Marine Policy Statement and the marine planning system.

Option 1: introduce the measures

7. These measures apply to activities conducted in territorial waters around England, Wales and Northern Ireland and for all UK waters beyond 12 nautical miles.

8. The measures fall under three main headings:

1) **Marine licence application and decision making procedures**. This includes:

- Bringing many of the consents (and permissions etc.) under the regimes mentioned above into a single system of marine licensing. In some cases this will mean consolidating licence requirements so that only one application has to be made: this will include for minerals which might previously have required a licence under both the marine minerals regulations and CPA, and where port development previously required more than one consent from two different bodies.
- The option for applicants of a more formal and thorough pre-application procedure to give applicants the opportunity of early engagement with the MMO who in turn will consult Primary Consultees including Cefas, Natural England and the JNCC. This aims to help applicants determine whether to make a formal application and to identify and resolve any potential conflicts before applying.
- A new web portal to provide information to potential applicants and an initial view on how their application should progress. In particular it will assess whether projects may be exempt or require an Environmental Impact Assessment or Appropriate Assessment. It will also be linked to Geographical Information System (GIS) maps and other web-based information to provide contextual information for applicants.
- A streamlined application process whereby resources are concentrated on activities that carry greater risks.

2) **Appeals against licensing decisions**. The MCA Act requires the Secretary of State to set up an appeals mechanism through which applicants can appeal against a licensing decision made by a licensing authority. This requirement builds on and improves provisions contained in the existing legislation (the Food and Environment Protection Act 1985 (FEPA)) which sets out the "right to make representations" to a Committee against the conditions placed in a FEPA consent; refusal for FEPA consent or the variation or revocation of a FEPA licence. The new appeals process proposed will provide a way for applicants to appeal against a licensing decision to an independent body – the Planning Inspectorate (PINS). We have closely aligned our proposed processes to those of

terrestrial planning appeals as we expect there to be benefits in developing a system which is consistent with current practice, for example, a familiar process should be easier to implement and for appellants to understand and follow.

3) **Scope of marine licensing**. The MCA Act's marine licensing provisions cover various activities: deposits of substances or objects, scuttling vessels, constructing, altering and improving works, removing objects and substances from the seabed, dredging, deposit and use of explosives and incineration. This broad scope will provide for consistency of decision-making across a range of activities. Exemptions are needed, however, to avoid licensing activities where licensing is not appropriate: for example because risks are low or because there are alternative regulatory systems in place. In many cases the effect of exemptions is to achieve a similar (though often not identical) situation to under existing arrangements. For example, some waste management activities were excluded from the need to have an Environmental Permit because they were covered by FEPA. Under the new system such activities will be within the scope of marine licensing so again will be excluded from the need to have an Environmental Permit. An exception to this is ship dismantling which will be regulated under Environmental Permitting rather than marine licensing. This may redistribute where effort is required amongst regulators but not impose a net cost. There are two exemptions where the outcome is materially different:

- Removal of substances and objects was not generally regulated in the past (apart from the extraction of marine minerals). Under the MCA Act, removals are licensable. Using vehicles to remove litter from beaches or removing items of cultural heritage from the sea[2] is now licensable. However, to enable proportionate regulation, it is proposed to exempt the removal of litter from beaches by or on behalf of the local authority.
- The MCA Act makes the act of navigation dredging licensable for the first time. Previously, operators needed a licence if they were depositing dredged material[3] or if the activity posed a risk to navigational safety. There is a year's grace after the introduction of the new licensing system before previously unregulated dredging will need a licence. MMO estimate that there might be an additional 35 applications a year but this depends on the licensing process involved and in particular the length of the licence. MMO could operate a screening process for maintenance dredging whereby low risk activities would be subject to a simplified licensing process.

Approach to the Impact Assessment

9. This Impact Assessment (IA) considers the two options:
    - **Do nothing**. The focus of this section is to establish some key parameters of the existing system - in particular numbers of licences and costs incurred by the licensing authority and industry – so that changes can be understood in that context.
    - **Introduce the measures**. The assessment of this option is more detailed, examining the range of expected transitional and ongoing impacts.
10. Costs and benefits have been quantified and monetised where possible and where this has not been possible they have been described. The model underlying the quantitative elements of this IA has been developed by independent consultants (Eunomia Ltd) specialised in developing IAs of policy proposals. There is inherently some level of uncertainty about the future impacts of any policy or system. For example, in this context, there is uncertainty over how future numbers of licence applications will relate to past numbers, what time savings will be achieved through more efficient systems, how many applicants will choose to use the pre-application procedure, and so on. Therefore it is necessary for a number of assumptions to be made. In making these assumptions the consultants have drawn on available data. Where hard data has not been available to guide assumptions, the consultants have drawn on previous experience and on advice from relevant experts. A half day workshop was then organised bringing together relevant experts from within

[2] Generally only up to 12 nautical miles..

[3] The Marine and Coastal Access Act, as amended by the Marine and Coastal Access Act (Amendment) Regulations 2011, maintains the status quo for the disposal of dredged material at sea –i.e. such a disposal requires a licence. As explained in this IA, there is in addition an extension of licensing to some navigation dredging.

Defra, the Marine Management Organisation and the Centre for Environment, Fisheries and Aquaculture Science in which all the assumptions were discussed and scrutinised. Specific assumptions made are explained in the sections following.

11. The key general assumptions and the rationale for these assumptions is as follows:
    - 2010 is chosen as the price base year and Present Value base year as the final decision on whether or not to go ahead with the changes will be taken during 2010.
    - Costs and benefits are assessed over 10 years as there is no reason to depart from the general advice in the Better Regulation Executive's Impact Assessment toolkit to use this time frame.
    - 3.5% is used as the discount rate in line with the Treasury Green Book guidance

12. For transitional costs and changes in the costs of the licence application process, a single 'best estimate' is provided. This reflects a relatively high degree of confidence in the figures and the fact that the overall quantum of change in costs is relatively low compared to many policy changes. This IA also seeks to quantify the benefit associated with reductions in delay resulting from increased certainty in the licensing process; this estimate is more speculative and is therefore presented within relatively wide ranges.

13. A draft Impact Assessment accompanied the consultation on firm proposals in July 2010 and consultees were asked for views and any further information to improve the analysis. The majority of respondents did not comment on the Impact Assessment or provided a qualified reply. The most common qualification was that savings would be realised by industry from the new system if the MMO (and its advisers) are sufficiently resourced to deliver it. Industry expressed the wish to see the MMO's service underpinned by performance targets. There was a strong view that firm timetables for the application process were important for cost savings. Defra recognises the validity of these concerns and will put in place clear performance targets for the MMO's delivery of the licensing system. Defra also expects the MMO to put in place service level agreements with its key advisers. Many respondents also felt that the £50K average cost for an EIA was not realistic. A revised estimate of £100k has therefore been included in this final version.

Impact of the do nothing option

Introduction

14. Some important features of this option are outlined in the description of options section above. The primary purpose of marine consenting systems is to manage the environmental impacts of marine activities. The changes are expected to provide some additional degree of environmental protection through a more consistent decision making process and simplify, reduce the costs and increase the fairness of the system. The IA therefore focuses mainly on the mechanics and costs of the system itself.

Costs of current system (Table A)

15. The first step is to establish which licences are relevant and how many we expect during the assessment period. Table A includes the licences that are expected to be within scope of the new licensing system. For the purpose of this evidence base the table is copied from the spreadsheets used to make the calculations for this IA so present precise numbers; this is not intended, however, to give the impression that we are able to predict costs with this level of accuracy.

16. The annual flow of applications in the fifth column is the average annual number over the past five years for all licences other than the "Minor works, pipelines and other miscellaneous licences" which

[4]. Numbers are rounded to whole numbers. The sixth column is an estimate of the average cost per licence to the MMO of processing the licence. This is an estimate based on the level of licence fee charged by the MMO adjusted upwards to take account of the fact that the MMO currently reports recovery of 66% of the costs they face directly related to dealing with marine consent applications. The seventh column, total costs, is the product of the annual numbers of licences and average costs of licences[5]. In total the estimate for the average annual costs incurred by the MMO for administering licences in 2009/10 is £2.8m[6]. The MMO recovers some proportion (currently 66%) of this from industry through fees and charges, but the estimates presented in this IA are before any cost recovery takes place. A separate IA has been undertaken on MMO's proposals for enhancing cost recovery.

17. The eighth column is the average costs to industry of applying for each type of licence. Estimates are taken from Frontline (2007), adapted for this IA by Eunomia Ltd. The ninth column is based on the assumption that the average cost of an Environmental Impact Assessment is £100k; in the consultation IA it was assumed this cost might be £50k based on initial discussions and taking account of the estimate in DCLG (2006) (see reference in Annex 2), however, views provided in consultation consistently suggested this was an underestimate and that £100k would be more realistic. The total costs to industry - £4.9m- are in the final column. Note again however, that the MMO recovers costs[7] from industry through fees and charges, but figures presented are before charges are made.

[4] This is three years because of the different duration of typical licences which make a 5 year average right for bigger projects but smaller projects have shorter licensing periods

[5] Note that because column 5 contained rounded numbers, multiplying the numbers in that column by those in column 6 will not precisely give the numbers presented in column 7. The same applies for column 10 which is a function of columns 5, 8 and 9.

[6] It should be noted that this estimate is for 2009/10 and changes since then mean that MMO face higher costs. A main reason for this is that since April 2010 MMO is now operating at arm's length from Defra, and therefore faces costs associated for example with IT systems and legal services that were previously born by Defra and were not therefore included in the 2009/10 estimate. The MMO estimate for the total costs they will face for marine licensing is £3.8m (in constant prices).

[7] Currently at a rate of 66% but the intention is to increase this to 100%

Table A: existing licensing system: Numbers and costs to the MMO and industry in 2009/10									
Area	**Licence Type**	**Name of Licence**	**Tier**	**Annual flow**	**Average cost to MMO**	**Total cost to MMO**	**Average cost to industry**	**Total EIA cost to industry**	**Total cost to industry**
Marine Works	**Construction and beneficial use licences**	Construction Licence Band	Minor Works	**18**	£ 1,083	£ 19,500	£ 2,699	£ -	£ 48,574
			Band A	**62**	£ 1,083	£ 66,733	£ 2,699	£ -	£ 166,232
			Band B	**116**	£ 1,553	£ 180,152	£ 2,699	£ -	£ 313,034
			Band C	**12**	£ 3,447	£ 42,742	£ 16,000	£ -	£ 198,400
			Band D	**14**	£ 6,856	£ 93,242	£ 16,000	£ -	£ 217,600
			Band E	**2**	£ 10,895	£ 17,433	£ 23,503	£ 160,000	£ 197,605
			Band F	**7**	£ 18,197	£ 127,379	£ 23,503	£ 700,000	£ 864,521
		Beneficial Use Licence Band	Band A Small	**7**	£ 1,083	£ 7,583	£ 3,250	£ -	£ 22,750
			Band B Regular	**4**	£ 3,447	£ 15,167	£ 16,300	£ -	£ 71,720
			Band C Large	**1**	£ 6,856	£ 4,114	£ 53,650	£ 60,000	£ 92,190
	Disposal licences	Maintenance Dredging	Band 1	**21**	£ 5,530	£ 117,242	£ 1,526	£ -	£ 32,351
			Band 2	**12**	£ 10,947	£ 135,742	£ 1,526	£ -	£ 18,922
			Band 3	**5**	£ 15,076	£ 69,348	£ 10,617	£ -	£ 48,837
			Band 4	**5**	£ 24,167	£ 111,167	£ 10,617	£ -	£ 48,837
			Band 5	**4**	£ 33,409	£ 126,955	£ 12,501	£ 380,000	£ 427,504
			Band 6	**9**	£ 52,652	£ 494,924	£ 12,501	£ 940,000	£ 1,057,509
		Capital Dredging	Band 1	**5**	£ 6,818	£ 36,818	£ 49,125	£ -	£ 265,275
			Band 2	**6**	£ 13,788	£ 82,727	£ 49,125	£ -	£ 294,750
			Band 3	**2**	£ 19,394	£ 34,909	£ 49,125	£ -	£ 88,425
			Band 4	**2**	£ 30,076	£ 54,136	£ 49,125	£ 180,000	£ 268,425
			Band 5	**1**	£ 43,712	£ 52,455	£ 49,125	£ 120,000	£ 178,950
			Band 6	**0**	£ 65,909	£ -	£ 49,125	£ -	£ -
		Fish Waste	All	**0**	£ 4,538	£ 1,815	£ -	£ -	£ -
	Minor works, pipelines and other miscellaneous licences	Submarine Pipelines etc.	All	**3**	£ 16,167	£ 43,111		£ -	£ -
		Rock dumping, etc.	All	**0**	£ 3,447	£ -	£ -	£ -	£ -
		Seabed Injection - etc.	All	**0**	£ 3,447	£ -	£ -	£ -	£ -
		Minor Works schemes	Up to £5,000	**0**	£ 192	£ -	£ -	£ -	£ -
		Tracer and Dyes	All	**11**	£ 126	£ 1,333		£ -	£ -
		Burial at sea	All	**0**	£ -	£ -	£ -	£ -	£ -
Marine Minerals		Pre-application fees	N/A	**3**	£ 91,697	£ 275,091		£ -	£ -
		Marine Aggregate	N/A					£ -	£ -
Maintenance Dredging			All	**35**	£ 16,768	£ 586,876			
TOTAL				**366**		**£ 2,798,695**		**£2,540,000**	**£ 4,922,412**

Impact of option 1: introduce the Government's measures

Introduction

18. This section sets out the transition costs and the annual costs and benefits of the measures for each of the three components of the package of measures: marine licence application and decision-making processes, appeals against licensing decisions and exemptions from marine licensing. Many of the costs and benefits derive from changes in the amount of paid time individuals in different functions spend doing things; the wage rates used for the estimates are explained in Annex 2.

19. The estimates for the costs of appeals are based on the assumption that 10 appeals annually go through written procedure, 1 per year is subject to a hearing and one every 5 years is heard through an inquiry.

Transition costs

Transition costs to the MMO

20. Setting up the new **application and decision-making procedures** is expected to involve the following:

    - **Developing new guidance for industry**. This is expected to require the MMO to invest 55 days of HEO time, 22 days of team leader time and 11 days of legal time. **This is expected to cost £28k during 2010/11.**
    - **Developing the new web portal** referred to in the description of option 1. Developing the new web portal is expected to take place during 2011 and cost £30k. An initial review of the system is expected in 2012 at a cost of £10k. These are based on Eunomia Ltd's experience of similar projects.
    - **Developing a new IT system.** The share of the cost of developing MMO's IT systems attributable to licensing **is expected to be £200k in 2010/11.**
    - **Development of new application forms.** This is expected to require the MMO to invest 30 days of HEO time, 15 days of team leader time and 5 days of legal time. **The total cost is expected to be £16k.**

21. Setting up the new **appeals mechanism** is expected to involve the following:

    - **Developing new guidance for industry**. This is expected to require the MMO to invest 8 days of HEO time, 1 day of team leader time and 0.5 day of legal time. **This is expected to cost £2k during 2010/11.**
    - **Training case workers**. This is expected to take half a day for 72 enforcement officers and require 9 days of trainer time. **The total cost would be £10k to MMO.**
    - **Development of new appeals forms**. This is expected to require the MMO to invest 2 days of HEO time, 1 day of team leader time and 0.5 day of legal time. **The total cost would be £1k.**

22. Introducing the new **exemptions** is not expected to lead to transition costs.

Ongoing costs and benefits

23. The measures to reform the marine licensing processes are expected to lead, in some respects, to a reduction in annual expenditure for both MMO and industry (e.g. from more efficient use of staff resources). In other respects they will also lead to some increases in expenditure (e.g. for maintaining the web portal and administering new licences). So that these changes in expenditure from operating the licensing system can be considered in the round, they are presented together for MMO and industry in the next two subsections. **It should nevertheless be noted that in summarising impacts, reductions in expenditure, or cost savings, are considered as benefits.**

Effects on MMO expenditure in operating the licensing system

24. Costs and cost savings resulting from the new **application and decision-making procedures** are expected to be as follows:

- **Maintaining the new web portal**. After the costs of development and initial review referred to above, annual maintenance costs of £5k are expected.
- **Reduced enquiries from industry and other users.** As referred to below it is expected that using the web portal will reduce the need for potential applicants to liaise with the MMO. It is assumed that half of potential applicants (183) will each save a day and th**i**s will also save the MMO a day each time. This would be a saving of EO time and **represent a cost saving of £36k p.a.**
- **Increased effort at pre-application stage and reduced effort at application determination stage**. MMO will invest more effort in the pre-application stage for those who choose to use this route. It is assumed that all applications requiring Environmental Impact Assessments or Appropriate Assessments will do so (a total of 55). This effectively means front-loading work to the beginning of the process so that the application determination stage is more straightforward involving less input for MMO. The expectation is that MMO will retain the same level of staff resource but those staff will reallocate their time to spend more time early in the process. **The effect of this reallocation would therefore be cost neutral.**
- **Cost saving from consolidation of licences.** A cost saving is expected for mineral dredging applications where only one marine licence will need to be processed rather than one under marine minerals regulations and one under CPA. There are 3 minerals applications on average each year (table A). The average cost of processing a licence is £9.9k[8] and it is assumed cautiously that consolidating these permits might save 30% of one (i.e. 15% of the two licences being consolidated) – **the total cost saving would therefore be £9k p.a.**
- **Cost of administering licences for previously unregulated maintenance dredging techniques.** It is not known precisely how many dredging operations fall under this heading . Defra's best estimate is that there might be around 30 that will require licensing for the first time in 2012. It is assumed that licences might last 5 years[9] so they would have to apply again five years later. In addition to ongoing operations, Defra also provide a best estimate that there might be around 20 operations that will first need licensing in 2013 and the same number first need licensing in 2014, 2015 or 2016. The average cost to MMO of administering a licence application is £9.9k. **The total additional cost would therefore be £495k in 2012 and again in 2017 and £198k in years after 2012 other than 2017.**

[8] Note that this is based on MMO's estimate of the costs they face in administering licences – see previous footnote.
[9] This is uncertain as MMO are still developing licensing policy but 5 years is probable

25. Costs resulting from the new **appeals mechanism** are expected to be as follows:

    - Written procedure appeals are expected to take 8.5 days of case worker time and 3 days of team leader time. **The estimated annual cost of 10 appeals is £30k**
    - Appeals that go to hearing are expected to take 12 days of case worker time, 1 day of team leader time, 3 days of senior manager time and 4 days of external legal advice. **The estimated annual cost of 1 appeal is £8k.**
    - Appeals that go to inquiry are expected to take 20 days of case worker time, 10 days of senior manager time and 12 days of external legal advice. **The estimated annual cost of 0.2 appeals is £4k.**

26. **Costs resulting from new licence requirements for removal of litter from beaches within designations.** No data was found to determine how often this will arise and so it is not possible to quantify this.

27. **Costs resulting from the change of responsibility for licensing of non oil and gas pipelines from DECC to the MMO.** Since in practice the MMO already licence these non oil and gas pipelines, **the expectation is that the effect of this regulatory change would be cost neutral.**

Effects on industry expenditure in applying for licences

28. Costs and cost savings resulting from the new **application and decision-making procedures** are expected to be as follows:

    - **Costs and cost savings of using the web portal.** This will take those applicants who decide to use it time in finding the right information about making applications but it will also save many of them more time to the extent that all the information they need is in one place and there will be a reduced need to ask questions. It is assumed that it will generally be senior managers who are involved in this activity. Of the 366 annual applications, 2/3rds are expected to use the web portal and it is expected to take them 0.5 day to do so. **This would represent a cost of £39k p.a.** 2/3rds of those who use the web portal (50% of all applications) are expected to save an average of 1 day. **This would represent a cost saving of £59k p.a.**
    - **Increased effort at the pre-application procedure and reduced effort at application stage.** This will reallocate effort to earlier in the process for those who use the pre-application stage (assumed to be those requiring Environmental Impact Assessments or Appropriate Assessments – an estimate of 55). As for MMO **this reallocation of time is expected to be cost neutral.**
    - **Costs savings from better specified EIAs**. It is assumed that where applicants requiring EIAs use the pre-application process they will have a clearer idea from the outset what information will be needed for the Environmental Statement, which will reduce the cost of undertaking EIAs. A cautious assumption is made that it will reduce EIA costs by 5%. It is estimated that 25 applications will require EIAs. The cost of an EIA is assumed to be £100k as explained in the context of table A. **This would therefore reduce annual costs by £127K.**
    - **Cost saving from streamlining.** Consolidation of marine minerals dredging licences would save time at application stage: this is likely to be a minimal saving as the main work would still have to be done- it is assumed that half a day saving is made for each licence. A more significant saving arises because CPA licences are currently required every three years so it would remove the need for new EIAs. The estimate of average costs for an EIA is £100k – **the annual ongoing saving is therefore assumed to be £300k p.a. starting three years after implementation, increasing to £600k p.a. six years after implementation as a second round of EIAs for each application is avoided**. There will also be a saving to the extent that there are applications for port developments that may be processed by the MMO at the same time. The average cost of an application to industry is £77k and it is assumed that dealing with two types of consent at the same time might save 20% of the cost of one (i.e. 10% across both). It is considered by Eunomia in discussion with Defra that there might be 1 port development each year. **Therefore the annual saving would be £15k.**
    - **Cost of administering licences for previously unregulated maintenance dredging techniques.** The estimated pattern of licence applications is described above for the MMO cost

estimates. **The total additional cost for industry would be £379k in 2012 and again in 2017 and £152k in years after 2012 other than 2017. No reasonable basis for assessing the costs of operational changes required to comply with new licence conditions has been established but this will addressed in the development of a streamlined process for licensing such activities which MMO will carry out before the licensing requirement for such dredging starts in April 2012.**

Annual costs for administering appeals

29. Costs for administering **appeals** are expected to be as follows:

- Written procedure appeals are expected to take 9 days of internal staff time (to understand the process, submit relevant documentation, review the MMO submission and respond and review outcome of the PINS decision). **The estimated annual costs for 10 appeals is £29k.**
- Appeals that go to hearing are expected to take 16.5 days of internal staff time and 4 days of external legal advice. **The estimated annual costs for 1 appeal is £9k.**
- Appeals that go to inquiry are expected to take 30.5 days of internal staff time and 13 days of external legal advice. **The estimated annual costs for 0.2 appeals is £4k.**
- Additionally there will be some costs associated with reviewing the appeals guidance. It is assumed that there will be an initial review of the appeals guidance after 2 years, requiring 2 days of HEO time **(total £400)** and reviews thereafter every 3 years requiring 1 day of HEO time **(£200 each time)**.

30. As for the MMO, costs and cost savings to industry resulting from the new **exemptions** have not been quantified. There may be some increased costs associated with any new licences for removing litter from beaches within designated sites and there may be some reduced costs associated with a more risk-based system for licensing maintenance dredging. The change in responsibility for the licensing of non-oil and gas pipelines from DECC to the MMO are expected to be cost-neutral to industry.

Annual costs to the Planning Inspectorate

31. Costs of administering appeals are expected to be as follows:

- Written procedure appeals are expected to take 4 days of inspector time. **The total cost for 10 cases would be £40k.**
- Appeals that go to hearing are expected to take 6 days of inspector time and travel and subsistence costs of £440. **The total cost for 1 case would be £6k.**
- Appeals that go to inquiry are expected to take 31 days of inspector time and travel and subsistence costs of £1k. **The total cost for 0.2 of a case would be £6k.**

Cost transfer from full cost recovery

32. Currently MMO recover around 66% of their costs via charges for licensing. As part of the measures MMO will be required to move to recovering 100% of costs. This is not direct cost recovery on a licence by licence basis but the MMO will need to calculate the total costs of licences annually and reflect that in the level of charges. This IA takes account of the impact of changes in the licencing system but not of cost recovery – i.e. it reflects the distribution of costs before licence charges are made.

Annual benefits from the changes

33. Benefits expected from the new **application and decision-making procedures** are:

- **More predictable timescales.** While the new system may not significantly reduce the amount of time required to obtain licences it is expected to make timescales more predictable by reducing the proportion of applications that face delays, for example because of the need for additional information late on in the process. This is likely to be of significant benefit to applicants. While it is expected that they will usually be able to factor in the expected time required to secure a licence, delays are likely to cause significant impacts and delay development. The precise scale of this effect is very uncertain. It is assumed that delays might affect 30% of applications under existing arrangements and that the measures might reduce these by 1 month on average in 2011, 2 months on average in 2012 and 3 months on average in 2013. Discussion in the workshop also concluded the annual value added of a marine licence activity requiring an EIA might be around £0.5m. Given the uncertainty around this, it was considered better to construct a range with a lower bound assumption of £0.1m p.a. and an upper bound assumption of £1m p.a. **This would translate to increased value added of between £0.1m and £1.4m in 2011 (with a best estimate of £0.7m), of between £0.3m and £2.7m in 2012 (with a best estimate of £1.4m) and between £0.4m and £4.1m thereafter (with a best estimate of £2.1m).** There are referred to as wider benefits in table C.

34. Benefits resulting from the new **appeals mechanism** are expected to be:

- **Increased fairness for applicants and confidence in the system if all parties know that it can be challenged independently.**

35. Benefits resulting from the new **exemptions/inclusions** are expected to be as follows:

- **Increased confidence that requirements of licensing only applies where proportionate to the underlying risks.** While the exemptions are largely in line with existing arrangements, the process of re-examination of which activities should be subject to licensing through full public consultation should increase confidence in the system

36. Annual cost savings are included within paragraphs 24 to 28.

Summary of costs and benefits

37. Tables B and C summarise the full calculations for costs and benefits of the measures, copied from the spreadsheets used to make the calculations. For these purposes increases in expenditure in paragraphs 24 to 28 are referred to as costs and reductions in expenditure as benefits. Note table B reports costs as negative numbers.

Table B: Summary of costs to industry, MMO and PINS

		Activity	2010/11	2011/12	2012/13	2013/14	etc.	10 Year NPV
Industry	Increased expenditure on licence applications	Scoping Applications	£0	-£39,350	-£39,350	-£39,350	2013/14 until	-£299,362
		Application determination	£0	£0	-£378,882	-£151,553		-£1,397,432
		Appeals - Written Procedure	£0	-£29,023	-£29,023	-£29,023		-£220,800

	and appeals	Appeals - Hearing Procedure	£0	-£8,521	-£8,521	-£8,521		-£64,825
		Appeals - Inquiry Procedure	£0	-£4,047	-£4,047	-£4,047		-£30,789
		INDUSTRY TOTAL	**£0**	**-£80,941**	**-£459,824**	**-£232,494**		**-£2,013,209**
MMO	Transition	Guidance	-£30,250	£0	-£400	£0		-£3,062
		IT Systems	-£230,000	-£10,000	£0	£0		-£239,662
		Systems	-£16,677	£0	£0	£0		-£16,677
		Training	-£9,910	£0	£0	£0		-£9,910
	Increased expenditure on licence administration and appeals	Application determination	£0	£0	-£495,399	-£198,160		-£1,827,182
		IT Systems	£0	£0	-£5,000	-£5,000		-£33,208
		Appeals - Written Procedure	£0	-£30,155	-£30,155	-£30,155		-£229,410
		Appeals - Hearing Procedure	£0	-£7,626	-£7,626	-£7,626		-£58,018
		Appeals - Inquiry Procedure	£0	-£3,725	-£3,725	-£3,725		-£28,340
		MMO TOTAL	**-£286,837**	**-£51,506**	**-£542,306**	**-£244,666**		**-£2,445,469**
PINS	Administering appeals	Appeals - Written Procedure	£0	-£40,000	-£40,000	-£40,000		-£304,307
		Appeals - Hearing Procedure	£0	-£6,440	-£6,440	-£6,440		-£48,994
		Appeals - Inquiry Procedure	£0	-£6,406	-£6,406	-£6,406		-£48,735
		PINS TOTAL	**£0**	**-£52,846**	**-£52,846**	**-£52,846**		**-£402,036**
		GRAND TOTAL	**-£286,837**	**-£185,294**	**-£1,054,976**	**-£530,006**		**-£4,860,713**

Table C:Summary of benefits

		Activity	2010/11	2011/12	2012/13	2013/14	etc.	10 Year NPV
Industry	Reduced expenditure on licence applications	Scoping Applications	£0	£59,025	£59,025	£59,025		£449,043
		EIA's	£0	£127,000	£127,000	£127,000		£966,176
		Consolidated permits	£0	£15,946	£15,946	£15,946		£2,246,870
	Wider Benefits	EIA projects	£0	£686,375	£1,372,750	£2,059,125		£13,698,111
		INDUSTRY TOTAL	£0	£888,346	£1,574,721	£2,261,096		£17,360,200
MMO	Reduced expenditure on licence administration	Scoping Applications	£0	£35,702	£35,702	£35,702		£271,608
		Consolidated permits	£0	£8,917	£8,917	£8,917		£67,839
		MMO TOTAL	£0	£44,619	£44,619	£44,619		£339,447
		GRAND TOTAL	£0	£932,965	£1,619,340	£2,305,715		£17,699,647

Table D: Costs and benefits summary, £m

	Industry	MMO	PINS	Total
Costs (present value)[10]	-2.0	-2.4	-0.4	-4.9
Benefits (present value)	17.4	0.3	0	17.7
Net present value	15.4	-2.1	-0.4	12.9

One-in, one-out

38. One-in, one-out is the rule whereby when new regulatory costs to business and civil society are introduced, an equivalent saving of regulatory costs needs to be found. Impact

[10] Costs presented as negative numbers

Assessments therefore need to record the increase in costs to business of regulation; and the savings for those measures that reduce regulatory cost overall. The measurements used are the equivalent annual costs and benefits to business.

39. These measures are an 'out' in one-in, one-out terms as their purpose is to improve an existing system of regulation, reducing its burden. In assessing an out, any costs of the measure need to be deducted from the cost savings. The equivalent annual estimates for this policy, over a ten year period and using a discount rate of 3.5%, are presented in the table below.

Direct impact on business (Equivalent Annual) £M						In scope of OIOO?
Costs:	-£242,071	**Benefits:**	£440,335	**Net:**	£198,264	**Yes**

40. The equivalent annual costs to business includes the five lines of costs in the industry section of table B. The equivalent annual benefits includes the first three lines of benefits in the industry section of table C. The wider benefits - savings associated with more predictable timescales – are not currently included here. This is because one-in, one-out is concerned with direct savings and these savings have previously been considered indirect – although it is arguable that they could be considered direct in one-in, one-out terms.

41. On this basis, this policy represents an out of £198k.

Interactions with other MCA Act measures

42. As discussed previously, the do nothing option, or counterfactual, does not include the other MCA Act measures; in particular: the marine planning system and marine policy statement. Nevertheless, it is important to understand whether the impacts of related policies are independent of each other such that if one were to add up the estimates in each individual IA, the total would represent the net effect of all of the policies or whether there is 'double counting' or 'network effects' (i.e. where the total is greater than the sum of parts).

43. In this case the impact of the marine licensing measures are largely independent of those covered in the marine policy statement IA and the marine planning system IA. This is because the focus of the marine licensing system is on improving and streamlining the administrative processes for marine, rather than being concerned with the substance of what decisions are taken which is more the focus of the policy statement and planning system. There are two issues, however, that merit attention that both result from the fact that the marine planning system will make more information available for applicants and increase certainty for them:

    i) That the provision of a web portal and pre-application phase might reinforce the benefits of the planning system by enabling and encouraging applicants to make better use of this information and make more informed decisions about their applications. This might either increase the value derived from applications or reduce the costs of making applications. This would be a network effect and increase the total value of MCA Act measures when combined.
    ii) That the availability of better information through the planning system would already make the application process more predictable. The question then arises whether some component of the benefits of more predictable timescales assessed in this IA are already achieved by the marine plannnig system and already captured in the associated IA.

44. It should be noted that one of these would tend to increase the overall benefits and the other to decrease them. The scale of each cannot readily be assessed making it difficult to ascertain whether the net effect of combining the licensing provisions with the other MCA Act provisions is greater or lesser than the sum of the estimates in each of the IAs.

Costs by different sizes of business

45. Information is not collected on which business size category applicants for marine licences fall within. The average additional cost of these measures for businesses subject to marine licensing can be estimated. If we assume that on average a licence will be held for ten years before either having to be renewed or surrendered there would be around 3660 licences in circulation. On the basis that the equivalent annual costs to all businesses is £204k (see the one-in, one-out section), and making the crude assumption that businesses only hold one licence each, the equivalent annual cost per business would be £56. This figure is provided for all sizes of business as no information is available on how costs are distributed across different sizes of business.

46. It should be noted that although the summary sheets only record the costs to businesses by size, taking account of benefits the net position per business, would translate to a benefit of £64.

Specific impact tests

Carbon Impact Assessment

47. These measures are unlikely to have a major effect on any of the determinants of carbon emissions such as the level or energy-intensity of production. Their focus is to make the process of licensing applications more efficient rather than reducing carbon emissions.

Competition assessment

48. This standard competition assessment test involves considering whether measures directly limit the number or range of suppliers, indirectly limit the number or range of suppliers, limit the ability of suppliers to compete or reduce suppliers' incentives to compete vigorously. These measures are unlikely to affect competition in any of these ways. The creation of a licensing scheme can directly limit the number of suppliers (excluding those who fail to meet the standards); given that these measures are concerned with improving an existing licensing scheme they would not be expected to limit suppliers in the same way.

Small Firms impact test

49. The costs of the measures are not expected fall disproportionately on small businesses. There may, however, be respects in which small businesses gain particularly from the measures. For example, the measures emphasize a more risk-based approach: to the extent that this reduces administrative costs this will be of particular benefit to smaller companies as they will have less resource for administration and so this will free up time for core business activities. Time savings achieved through using the web portal may similarly be of particular benefit to smaller businesses.

50. A previous section (costs by different sizes of business) estimate the cost impact per business.

Unintended consequences

51. Consideration has been given to potential adverse side effects of the measures and none has been identified to date.

Legal Aid Impact Test & Justice System

52. An Impact Test was submitted to the Ministry of Justice to assess any impact the new marine licensing system may have on applications for legal aid. This was carried out by the policy team according to the guidance at the following link: http://www.justice.gov.uk/guidance/justice-impact-test.htm.

53. The only possible impact identified was that the secondary legislation on appeals against licensing decisions applies s.250 of the Local Government Act (LGA)1972 (with modifications) to appeals dealt with by inquiry or hearing. Section 250 of the LGA prescribes how inquiries may be directed. It creates an offence if someone refuses or deliberately fails to attend a summons or to give evidence. The offence also applies if someone deliberately alters, suppresses, conceals, destroys, or refuses to produce documents.

54. The Ministry of Justice have assessed that there will be a minimal impact on Legal Aid, as appeals are more likely to be lodged by businesses rather than individuals.

Economic

55. No specific economic effects are expected beyond those in the core analysis.

Other environmental effects

56. The measures are not expected to have a significant effect on environmental outcomes because they address the efficiency of the licence application process rather than how decisions themselves are finally taken. Two possible, but not very significant, implications of the measures are:
    - To the extent that project go ahead more quickly than otherwise and they have any impact on the environment that may arise correspondingly quickly; however the purpose of licensing is to ensure that activities only go ahead if effects are acceptable so this is unlikely to be a major effect.
    - Given that the measures are expected to place more focus on greater risks it may to some extent improve the management of greater risks – for example by identifying issues that may not otherwise have been identified. This is unlikely to be a significant difference as being risk-based is already an important element of the existing arrangements.

Health Impact Assessment

57. There are unlikely to be significant health impacts of the measures given that they focus on the efficiency of the licence application process. As under the existing consenting system, the need to prevent harm to human health is an important factor which will be considered by the MMO when determining a marine licence application.

Sustainable Development Principles

58. These measures directly support one of the five principles of sustainable development – that of ‘promoting good governance’.

Other equality issues

59. The following reports the conclusions made for the other issues that have been considered to test for differential impacts:

    - **Race equality**. None identified
    - **Gender equality**. None identified
    - **Disability equality**. None identified
    - **Human rights**. None identified
    - **Rural areas and regional**. The measures will affect companies which apply for licences so this will depend on where they are.
    - **Age and income**. None identified.

- **Devolved countries**. The measures apply in UK waters except in territorial waters in Scotland.

Description of implementation plan

60. The MMO is responsible for the implementation activities referred to in the section on transition costs. They are doing these activities during the current financial year (2010/11) to be prepared for when the measures take effect in April 2011. As with other functions, the MMO will carry out monitoring and review of the efficacy of its processes and outcomes. Specific targets are to be agreed between Defra and the MMO before the new licensing system starts.

Annexes

Annex 1 should be used to set out the Post Implementation Review Plan as detailed below. Further annexes may be added to provide further information about non-monetary costs and benefits from Specific Impact Tests, if relevant to an overall understanding of policy options.

Annex 1: Post Implementation Review (PIR) Plan

A PIR should be undertaken, usually three to five years after implementation of the policy, but exceptionally a longer period may be more appropriate. A PIR should examine the extent to which the implemented regulations have achieved their objectives, assess their costs and benefits and identify whether they are having any unintended consequences. Please set out the PIR Plan as detailed below. If there is no plan to do a PIR please provide reasons below.

Basis of the review: [The basis of the review could be statutory (forming part of the legislation), it could be to review existing policy or there could be a political commitment to review]; The Marine and Coastal Access Act requires that its provisions are reviewed after three years or thereafter for those provisions where that would be too early. More widely the new system will be reviewed as a matter of good practice embedded in Defra's policy cycle which requires that new policies are reviewed. The costs of the system also have to be reviewed annually for MMO to review its charges and justify any changes to the Treasury.
Review objective: [Is it intended as a proportionate check that regulation is operating as expected to tackle the problem of concern?; or as a wider exploration of the policy approach taken?; or as a link from policy objective to outcome?] To ensure that the licensing system is operating efficiently and the new measures are working as expected. To inform the level of charges.
Review approach and rationale: [e.g. describe here the review approach (in-depth evaluation, scope review of monitoring data, scan of stakeholder views, etc.) and the rationale that made choosing such an approach] The focus is likely to be reviewing monitoring data and evaluating whether the system is achieving the intended objectives.
Baseline: [The current (baseline) position against which the change introduced by the legislation can be measured] The baseline is continuing with the current system of licensing.
Success criteria: [Criteria showing achievement of the policy objectives as set out in the final impact assessment; criteria for modifying or replacing the policy if it does not achieve its objectives] These have been developed by MMO for inclusion in their Service Level Agreement with Defra. They are cover issues like compliance, whether licence conditions are achieving environmental objectives, timescales for licence applications and determinations and costs incurred by the MMO.
Monitoring information arrangements: [Provide further details of the planned/existing arrangements in place that will allow a systematic collection systematic collection of monitoring information for future policy review] MMO is currently developing the systems to capture the information.
Reasons for not planning a PIR: [If there is no plan to do a PIR please provide reasons here] N/A

Annex 2: General assumptions

Wage rates

Rates for the relevant functions have been provided by Eunomia Ltd in agreement with Defra. The MMO rates are based on staff costs and the industry rates are based on typical salaries and have been validated by industry representatives. All rates include a component to cover overheads and are adjusted to take account of the proportion of productive days (i.e. when staff are not on holiday or sick absence).

Wage rates	
Function	Daily wage rate, £s
External legal advice	800
MMO operations director	452
MMO deputy chief inspector/ team leader	367
MMO deputy inspector	294
MMO senior fisheries officer	292
MMO enforcement officer	225
MMO fisheries officer	236
MMO enforcement officer trainer	294
MMO Senior Executive Officer	231
MMO Higher Executive Officer	200
MMO Executive Officer	195
MMO Administrative Officer	159
Industry director	322
Industry senior manager	322
Industry manager	322
Industry internal professional	322
Industry technician	184
Industry clerical staff	184
Industry administrative	184
Industry skilled	184
Industry other	184
Planning inspector	1000