

<b>Title:</b> Public Bodies Reform Bill – Marine Management Organisation charges <b>IA No:</b> Defra 1428 <b>Lead department or agency:</b> Department for Environment, Food and Rural Affairs <b>Other departments or agencies:</b> Marine Management Organisation	<b>Impact Assessment (IA)</b>		
	<b>Date:</b> 01/10/2013		
	<b>Stage:</b> Final		
	<b>Source of intervention:</b> Domestic		
	<b>Type of measure:</b> Secondary legislation		
<b>Contact for enquiries:</b> Neeta Parmar 0207 238 3221			
<b>Summary: Intervention and Options</b>		<b>RPC Opinion:</b> RPC Opinion Status	

Cost of Preferred (or more likely) Option			
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Measure qualifies as One-Out?
0.00	£-5.02m	£0.46m	No
			NA

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

The Marine and Coastal Access Act 2009 (MCAA) provided for a new streamlined licensing system for most developments at sea that will reduce the regulatory burden on business. However, an unintended consequence of the 2009 Act was that the charging powers were not as extensive as under the licensing system it replaced - Part 2 of the Food and Environment Protection Act (FEPA) 1985. FEPA allowed for the recovery of the costs of varying licences and of post-licence monitoring which the MCAA does not. Government intervention is needed to avoid the taxpayer subsidising this.

**What are the policy objectives and the intended effects?**

The Government's objective is that those who benefit from obtaining a marine licence should bear the full cost of varying the content of the licence or the cost of monitoring work required of the MMO. The Government also supports MMO's aim of granting longer licences which provide more certainty for business and avoids the cost and effort for business of having to apply for an entirely new licence every time a change is required. The power to charge for variation supports this policy aim. The effects of the Order will be reviewed at least insofar as the MMO will keep on reviewing the level of its fees and charges.

**What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)**

The two options considered were (a) to do nothing (i.e. leave the MMO's charging powers unchanged) and (b) to change the MMO's charging powers in the Public Bodies Reform Bill and to adjust the fee structure.

The preferred option is Option (b) because it would achieve the goal of full cost recovery and avoid the unintended consequence of shorter licences and fewer licence variations - both of which would add to the overall cost of licensing.

<b>Will the policy be reviewed?</b> It will be reviewed. <b>If applicable, set review date:</b> 06/2016					
Does implementation go beyond minimum EU requirements?			No		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	<b>Micro</b> Yes	<b>&lt; 20</b> Yes	<b>Small</b> Yes	<b>Medium</b> Yes	<b>Large</b> Yes
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)			<b>Traded:</b> N/A	<b>Non-traded:</b> N/A	

*I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.*

Signed by the responsible Minister: \_\_\_\_\_ **George Eustice** \_\_\_\_\_ Date: 19 March 2014

# Summary: Analysis & Evidence

# Policy Option 1

**Description:** Amend MMO's Charging Powers

## FULL ECONOMIC ASSESSMENT

Price Base Year 2013	PV Base Year 2014	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: 0	High: 0	Best Estimate: 0.00

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	0.0	0.6	5

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

Total present value ongoing cost to industry is £5m; £2.5m comes from the fees payable to the MMO for licence variation applications and monitoring licence conditions while £2.5m comes from payment of fees for disposal site monitoring.

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

Industry and the MMO will incur costs for making minor changes to their systems to take into account the processing of payments and receipt of payments under the proposed cost recovery system. However, it is anticipated that the total cost of this will be very small and almost negligible.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	0.0	0.6	5

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

Under the baseline, the MMO incurs the costs of handling licence variation requests and monitoring (including disposal site monitoring). However, the cost recovery system under the preferred option transfers part of this cost burden to industry. This transfer of cost burden is a benefit to the MMO, and this amounts to a total present value of £5m over 10 years.

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

Under the baseline option, there are equity issues between licence applications/holders whose activities are within the scope of the Marine Works (Environmental Impact Assessment) Regulations and those that are outside (i.e. those that undertake dredge material disposal activities). The former are subject to monitoring costs while the latter is not. The introduction of fees for dredge disposal monitoring levels the playing field for both groups of licence applicants/holders.

Key assumptions/sensitivities/risks	Discount rate (%)	3.5
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It is assumed that the number of applicants for licence variations, and the number of monitoring cases (including the monitoring of dredge disposal sites) stay constant over the 10 year period of analysis, starting from April 2014. The values of fees used to calculate costs and benefits in this Impact Assessment are also subject to a separate Impact Assessment (see paragraph 6 below), but for the purpose of analysis here, have been taken as given.

## BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: 0.5	Benefits: 0.0	Net: -0.5	No	NA

# Evidence Base

## Background

1. The Marine and Coastal Access Act 2009 (MCAA) is designed to help the UK to achieve clean, healthy, safe, productive and biologically diverse oceans and seas. It provides for the better protection of the marine environment; sustainable use of marine resources; an integrated planning system for managing our seas, coasts and estuaries; a robust legal framework for decision-making; streamlined regulation and enforcement; and access to the coast.
2. Part 4 of the MCAA brought in a new streamlined marine licensing system for most UK waters. The new licensing system, which came into effect in April 2011, aims to enable consistent and sustainable decision-making about what activities are allowed to take place in the marine environment. Developments subject to licensing can range from small projects such as installation of buoys or construction of small jetties to larger harbour or wind farm developments.
3. Defra's Secretary of State is one of several 'licensing authorities' under Part 4 of the MCAA. The Secretary of State's licensing functions have been delegated to the Marine Management Organisation (MMO) under section 98 of the MCAA (except for some oil and gas related activities which are licensed by the Department of Energy and Climate Change).
4. The licensing authorities have the power under section 67(1)(b) of the MCAA to charge for marine licence applications. The fees that MMO apply are set in the Marine Licensing (Application Fees) Regulations 2011. The fees set are fixed for small and medium size applications. For more complex cases, the fee is based on the time that the MMO and their scientific advisers, the Centre for Environment, Fisheries and Aquaculture Science (Cefas) spend on an application.
5. Historically, even though there were wider charging powers, the Government did not fully recover the costs of issuing licences under Part 2 of the Food and Environment Protection Act (FEPA) 1985. The Government has begun to move towards full cost recovery. The fees set out in the Marine Licensing (Application Fees) Regulation 2011 aimed to recover 90% of the costs for which the MMO can charge in 2011/12 and 100% in 2012/13, without cross-subsidy between applicants. However, this has not yet been achieved. Two changes to the charging regime are currently being proposed.
6. One proposal addresses an unintended consequence of the 2009 Act, which does not provide the necessary powers to charge for variations to marine licences, or certain monitoring costs associated with licences. (These were covered under the previous system governed by the Food and Environmental Protection Act 1985.) The Government has therefore proposed a new power to the Public Bodies Act to modify the current charging powers for licences granted under Part 4 of the MCAA to allow recovery of monitoring costs and marine licensing variations. Without this change, the MMO would be left with a substantial financial deficit which the taxpayer would need to meet. This proposal is the subject of this Impact Assessment. Option 1 in this Impact Assessment would enable cost recovery for new applications/variations in the future.
7. The second change is to the overall structure and level of fees and charges. A consultation was launched for marine licensing fees and charges in September 2013. This is subject to a separate Impact Assessment which will be updated after the consultation has ended. This consultation can be viewed at <https://www.gov.uk/government/consultations/revision-to-marine-licensing-fees-and-charges>. It is based on a review by the MMO at the end of 2012, based on its experience of cost recovery under the new licensing system. This is likely to lead to changes in fees which will apply from April 2014.
8. The MMO does not and will not in the future include the costs of enforcement in its licensing fees. It is Government policy that fees should not include such costs.
9. A consultation on this policy change was held over July and September 2013. The consultation IA has been updated for the final impact assessment. The majority of respondents recognised the need to recover costs. A full discussion of the consultation and subsequent changes to the IA is in paragraphs 51 to 56.

## Problem under consideration

10. The scope of the charging powers in section 67 of the MCAA is insufficient to allow the recovery of costs incurred:-

- a. In monitoring sites where licensable activity is taking place, (i.e. monitoring of aggregate dredging is undertaken within the boundary of the dredge site),
  - b. For reviewing monitoring reports required from licence holders, (i.e. typical monitoring reports could be surveys of sea floor deposits, suspended solids assessment (for non-aggregate dredging projects),
  - c. Varying existing licences, (i.e. change of vessel name on issued licence or significant variation including assessment).
11. While monitoring costs for dredging can be recovered in some cases (where dredging is part of a project within the scope of the Environmental Impact Assessment Directive) in many cases it is not. The regular dredging of ports and harbours to keep navigation channels open, which may involve millions of tonnes of material, is not generally subject to EIA. The disposal of this dredged material can, however, have significant environmental effects. The UK is required under EU and international obligations to monitor the effects of such disposal. The cost of this monitoring is the main cost that MMO cannot currently recover under the charging powers in the MCAA.
12. The Public Bodies Act 2011 allows the Secretary of State to modify the funding arrangements of specified bodies such as the MMO. The Government proposed the inclusion of the MMO in Clause 4 and Schedule 4 of the Act in order to give the Secretary of State the power to deal with the funding gap for monitoring and variations caused by the differences between FEPA and the MCAA.

### **Rationale for Government intervention**

13. There is high value to society in ‘clean, healthy, safe, productive and biologically diverse oceans and seas’, through the services which they provide. Some human activities can have detrimental effects on the marine environment and many of the benefits do not have a market value meaning market mechanisms alone cannot ensure that all these human activities are accounted for. Market failures occur when the market has not and cannot in itself be expected to deliver an efficient outcome.<sup>1</sup> In the context of the marine environment these failures can be described as:
- Public goods – A number of goods and services provided by the marine environment such as climate regulation and biological diversity are ‘public goods’ (no-one can be excluded from benefiting from them and consumption of the service does not diminish the service being available to others). The characteristics of public goods mean that individuals do not necessarily have an economic incentive to voluntarily contribute effort or money to ensure the continued existence of these goods leading to undersupply or overuse.
  - Negative externalities – Negative externalities occur when damage to the marine environment is not fully accounted for by users. In many cases no monetary price is attached to marine goods and services therefore the cost of damage is not directly priced by the market.
14. Government intervention is necessary to address these market failures and to internalise the externalities of different uses of the marine environment to ensure that it is used efficiently. The Government intervenes in the marine environment through a number of measures, including licensing which helps regulate which activities can take place in the marine environment and ensure environmental protection. The UK Marine Policy Statement sets out the Government’s objectives for these measures.
15. In keeping with the Government’s policy that those who carry out an activity should bear its full cost, the Government aims to recover the full costs of licensing marine activities. This is not the case at present because MMO cannot fully recover its costs under its current legislative powers. Taxpayers and other users are partly funding the costs of licence applications and this intervention aims to address this.

### **Policy Objective**

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<sup>1</sup> HMT Green Book (2003) [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/220541/green\\_book\\_complete.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/220541/green_book_complete.pdf)

16. The policy objective is that the MMO should be able to recover the costs of licensing, including monitoring and variation costs. The work associated with these costs should be no more than necessary for the purposes of environmental protection/requirements.
17. In addition, the Government made a commitment to review the fees charges and how far the objectives of transparency of costs, efficiency, certainty for applications and limits on new burdens had been achieved. This review was completed at the end of 2012 and proposals for change are covered by the separate consultation mentioned in paragraph 6. The review of the fees structure, together with the policy objectives of recovering the costs of variations and monitoring, aims to:
- provide transparency – the MMO’s charging scheme is intended to be straightforward, clear and available for scrutiny by its customers;
  - demonstrate efficiency – that includes find the most efficient means of delivering marine licensing including adopting “fast-track” approaches for straightforward applications, looking to drive down operating costs; and looking, with Government, to adopt regulatory approaches that are economically efficient;
  - provide certainty – the MMO wish to provide marine licence applicants, particularly small and medium sized enterprises, with a clear view of what their costs are likely to be;
  - limit new burdens – the MMO want to achieve full cost recovery where possible whilst avoiding any rapid fee increase that customers would find difficult to plan for. It is important that the fees do not have a negative influence on whether to invest in marine activities;
  - realise the benefits from introducing a programme of efficiency improvements to MMO internal processes and cost savings which will contribute to achievement of full cost recovery.

### Options considered

18. The option of making the changes to the MMO’s charging powers has been compared to the baseline where the changes are not made.

### Baseline

19. Table 1 below summarises the baseline costs to the MMO for processing requests to vary a licence (row 1), for monitoring whether a licensee is operating in compliance with the conditions attached to a licence (row 2), and for monitoring the condition of dredge disposal sites (row 3). The calculations start from April 2014 until the end of 2023, and it is assumed that the costs, as described in the previous paragraphs, stay constant each year. These figures are based on the MMO data from 2012/13, an update from the consultation stage Impact Assessment which was based on 2011 figures.
20. **Licence variation** The MMO may incur costs and cannot presently recover them is when an applicant wishes to vary a licence. Processing requests to vary a licence is forecasted to cost the MMO a total of £223.9k per year under the baseline. Such variations may range from very small changes (e.g. the name of a vessel on a licence) to fundamental detailed changes that require reassessment of some of or the entire project. If the MMO is not able to charge for dealing with the variation, they may in the future need to ask applicants to submit a new application for cases which require significant changes to a licence. This could lead to additional costs and burden for licence holders, whereas the MMO’s aim has increasingly been to issue longer licences in order to reduce costs to business.
21. **Monitoring compliance with marine license conditions** In cases where the EIA Regulations do not apply, the MMO is currently unable to recover the costs of monitoring whether a licensee is operating in compliance with the conditions attached to a licence. This cost is forecasted to amount to £149.7k per year under the baseline. The cost associated with this type of monitoring is the work of the MMO and their scientific advisors (mostly Cefas) in reviewing the information provided by the licence holder. The cost of site inspections will be recovered when required.

22. **Monitoring of disposal sites** Monitoring of disposal sites is carried out by Cefas who agree annually a risk-based monitoring programme with the MMO. The annual cost to the MMO for this monitoring programme is £300,000.

**Table 1. Baseline costs to the MMO for processing license variation applications, for monitoring compliance with marine license conditions, and for monitoring of dredge disposal sites**

	2014	2015	etc.	2023	10 year total	10 year NPV
License variation	-£167,933	-£223,911	etc.	-£223,911	-£2,183,132	-£1,871,380
Monitoring compliance with marine license conditions	-£112,268	-£149,691	etc.	-£149,691	-£1,459,487	-£1,251,070
Monitoring of dredge disposal sites	-£225,000	-£300,000	etc.	-£300,000	-£2,925,000	-£2,507,306
<b>Total cost</b>	<b>-£505,202</b>	<b>-£673,602</b>	<b>etc.</b>	<b>-£673,602</b>	<b>-£6,567,620</b>	<b>-£5,629,756</b>

Note: these annual costs are included in the £3.5m annual forecasted cost for operating the MMO's marine license function shown in Annex 2.  
Even though it is assumed that costs are constant each year, 2014 costs are marginally lower than the costs for the other years because the assessment takes April 2014 as the starting point.

As shown in Table 1 above, it is forecasted that the MMO will incur present value costs of over £5.6m for processing licence variations, monitoring compliance with marine licence conditions and for monitoring of dredge disposal sites over 10 years under the baseline (i.e. carry on with the current policy where the MMO cannot recover costs for the three activities described).

### Option 1- Amend MMO Charging Powers

23. Under this option, the MMO would be able to recover the costs it currently incurs for monitoring associated with issuing marine licences, including the costs of monitoring dredge disposal sites. The MMO would also be able to recover the costs it currently incurs in varying licences at the licence holder's request. The main impact of this option is therefore a cost transfer from the MMO to industry.

#### Assessment and assumptions

24. The calculation of costs and benefits of Policy Option 1 is based on the number of annual cases for licence variation requests and monitoring. This may differ from the number of businesses affected. In theory, every marine licence holder could be affected. Micro-businesses are less likely to be affected as MMO experience shows that it is generally larger businesses that request licence variations or have impacts that require monitoring. Maximum fee ceilings specifically to reduce potential impacts on micro-businesses are discussed in a later section. In addition, a single business may hold several licences requiring monitoring or variation, or may request a licence to be varied more than once in a year. This means that the number of annual cases is not identical to the number of businesses affected.

25. In broader terms, the MMO estimates that of the annually predicted 401 licence variations, it is reasonable to assume that the Variation 1 around 90 cases are from small businesses and individuals; Variation 2 around 274 are a mix of small/medium/large businesses and Complex Variation 3 around 7 are all large businesses.

26. It is assumed that the changes in charging would not impact on the number of licences applied for or the number of variations applied for. Variations are completely separate to new applications and the number of new applications coming into the MMO in future years is not determined by the number of variations. As variations are only undertaken for a genuine reason, e.g. if something within the project changes, then the applicant will need to vary their licence. No change in the number of variations is expected from the proposal.

27. The paragraphs in the next sections describe and assess the costs and benefits of Option 1 to those who will be affected by the introduction of this cost recovery system (i.e. cost transfer from the MMO to industry), including specific assumptions that are used to calculate these costs and benefits. Generally, the assessment assumes that the policy may be introduced in the upcoming financial year (i.e. commencing April 2014) therefore the 10 year assessment period starts on the same period. The figures presented are according to calendar year. As per the guidance found in the HM

Treasury's Green Book, the discount rate used to calculate present values is 3.5%. The assessment is also made relative to the baseline.

28. In the assessment, the fees that are paid by the industry to the MMO due to the introduction of the cost recovery system are the same as the costs that the MMO can recover. The terms "cost incurred by industry" and "costs recovered by the MMO" are used interchangeably in this Impact Assessment.
29. In the Evidence Base section of the Impact Assessment the costs of monitoring associated with marine licence conditions is assessed separately from the costs of monitoring dredge disposal sites. This is because the fee structures proposed for each type of monitoring are different. However, the aims of both activities are similar. The aim of monitoring associated with marine licence conditions is required to ensure that conditions set in the licence are being satisfied. Meanwhile, the aim of disposal site monitoring is to ensure that the environmental state of the disposal is suitable for continued disposal activity and that predictions for the limitations of the effects of disposal continue to be met.

### One-off transition costs

30. It is anticipated that the transition cost to the MMO of the (proposed) cost recovery system will be very small. This is because the case management system currently used by the MMO licensing team already records each variation and requirement for monitoring, so the system change will only be related to the addition of payment information. This means that the transition cost to the MMO has not been monetised.
31. Transition costs to industry/licence holders will involve a one-off activity of setting up a system to pay the MMO for licence variation requests and/or for monitoring. However, these businesses that will be subject to transition costs will already have a system set up to pay the MMO. Businesses have to pay the MMO for each licence application, and it is likely that the system used to initially pay the MMO for this will also be used to pay for licence variation requests and/or monitoring costs. This means that it is likely that the transitional costs to industry will be very small or zero, which is why the total transition cost to industry is not monetised in this Impact Assessment.

### On-going costs

#### *Costs of license variations and monitoring (excluding dredge disposal sites monitoring)*

32. The level of the fee for licence variations and monitoring (excluding monitoring of dredge disposal sites) is based on the MMO's hourly charge for marine licensing work. The MMO's hourly rates are to be finalised following the separate consultation on fees and charge rates. However, for the purpose of calculating the cost of Policy Option 1, it is assumed that the hourly rate<sup>2</sup> for an MMO case worker is £94 and £86 for a Cefas case worker. Additionally, each case is classified under a particular 'function', and each function reflects the complexity of the variation or monitoring involved. Annex A outlines these different functions under the proposed new structure for variations and monitoring (excluding dredge disposal monitoring).
33. The guiding principle is that fee rates are based on actual hours worked but with maximum ceilings for simple administrative changes or routine casework (see Annex A for the maximum fee ceilings applied under each function). An exception is made for complex cases where there will be no maximum fee ceiling and the total fee will be calculated on a per hour basis. The introduction of maximum fee ceilings would provide applicants with greater confidence on costs and be of particular benefit to smaller operators.
34. The introduction of the maximum fee ceilings also mean that there are cases where the MMO cannot recover all the costs<sup>3</sup> related to variations and monitoring. The MMO has to continue covering these costs like it will do under the baseline. The introduction of the cost recovery policy only means that the MMO can recover from industry most of the costs that it incurs for licence variation requests and monitoring.

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<sup>2</sup> Including VAT

<sup>3</sup> These are referred to as "unrecoverable costs" in the rest of the Impact Assessment.

35. Table 2 below sets out specific details on the estimated number of cases, hours spent per case by MMO and Cefas staff and the equivalent annual costs and annual costs recovered given the fee ceilings. Annual case numbers and average MMO and Cefas hours per case were taken from MMO 2012-13 data. These figures are used to calculate the costs of license variations and monitoring (excluding dredge disposal monitoring) to the industry and the MMO and presented in Table 3 in the next paragraph.

36. For licence variation requests there are three variations:

- a. Variation 1 would cover for example a change in name of a vessel or transferring a licence and would be subject to a £50 cap fee ceiling.
- b. Variation 2 would cover for example a change to a marine licence other than those included in the description of Variation 1 and would be subject to a £200 cap fee ceiling.
- c. Variation 3 would cover a change to a marine licence where the MMO would need to consult with advisors and would be subject to hourly rate with no fee ceiling.

These variations are explained in detail in Annex A.

**Table 2. Assumptions used to calculate licence variation requests and monitoring (excluding disposal site monitoring) costs**

Function:	Proposed fee ceiling per case	Annual case numbers	Average MMO hours per case	Annual total MMO hours	Average Cefas hours per case	Annual total Cefas hours	Annual full cost of each function <sup>a</sup>	Annual MMO recoverable cost given fee ceiling <sup>b</sup>	Annual recoverable cost as a proportion of annual full cost
<b>Licence variation requests</b>									
Variation 1 (capped)	£50	90	1	90	-	-	£8,460	<b>£4,500</b>	53%
Variation 2 (capped)	£200	274	4.5	1232	-	-	£115,825	<b>£54,764</b>	47%
Complex Variation (hourly)	No fee ceiling	37	24	890	5	185	£99,626	<b>£99,626</b>	100%
<b>Variations total</b>		<b>401</b>		<b>2,212</b>		<b>185</b>	<b>£223,911</b>	<b>£158,890</b>	<b>71%</b>
<b>Monitoring of compliance with marine licence conditions</b>									
Routine <1m	£750	57	6	342	2.5	143	£44,403	<b>£42,750</b>	96%
Complex Monitoring non EIA	No fee ceiling	82	10	820	4	328	£105,288	<b>£105,288</b>	100%
<b>Monitoring total</b>		<b>139</b>		<b>1,162</b>		<b>471</b>	<b>£149,691</b>	<b>£148,038</b>	<b>99%</b>
MMO hourly rate: £94 Cefas hourly rate: £86									
<sup>a</sup> Full cost is calculated using the formula: (MMO hourly rate * annual total MMO hours) + (Cefas hourly rate * annual total Cefas hours).									
<sup>b</sup> MMO recoverable cost is calculated using the formula: proposed fee ceiling per case multiplied by annual case numbers.									
<sup>c</sup> Unrecoverable cost is calculated by subtracting the annual full cost recovered from the annual full cost of each function.									
Note: Numbers may not add up due to rounding errors.									
Annual case numbers, average MMO hours per case and average Cefas hours per case were taken from 2012-2013 MMO data.									

37. Table 3 below shows the annual costs and 10 year present value cost to industry and the government (MMO) of the introduction of the cost recovery system for variations and monitoring (excluding disposal site monitoring), assuming that Policy Option 1 is introduced in April 2014. The costs that can be recovered by the MMO represent the costs that industry will incur through the payment of fees for variations and monitoring, whereas the unrecoverable costs will be subsidised by the MMO using public funds and therefore considered a cost to government. For more information on what are included under variations and monitoring that are shown in Table 3, please refer to Annex A.



**Table 3. Licence variation and monitoring (excluding disposal site monitoring) costs under Policy Option 1**

	2014	2015	etc.	2023	10 year total	10 Year PV
<b>Licence Variation Requests</b>						
<b>Total annual licence variation costs that the MMO can recover</b>	<b>-£119,167</b>	<b>-£158,890</b>	<b>etc.</b>	<b>-£158,890</b>	<b>-£1,549,176</b>	<b>-£1,327,951</b>
Total annual licence variation costs that cannot be recovered by the MMO due to introduction of maximum fee ceiling	-£48,766	-£65,021	etc.	-£65,021	-£633,959	-£543,429
<b>Monitoring of compliance with marine licence conditions</b>						
<b>Total annual monitoring costs that the MMO can recover</b>	<b>-£111,029</b>	<b>-£148,038</b>	<b>etc.</b>	<b>-£148,038</b>	<b>-£1,443,371</b>	<b>-£1,237,255</b>
Total annual monitoring of compliance with licence condition costs that cannot be recovered under Policy Option 1 due to the introduction of maximum fee ceiling	-£1,240	-£1,653	etc.	-£1,653	-£16,117	-£13,815
<b>Total costs to industry: costs that can be recovered by the MMO</b>	<b>-£230,196</b>	<b>-£306,928</b>	<b>etc.</b>	<b>-£306,928</b>	<b>-£2,992,546</b>	<b>-£2,565,206</b>
<b>Total cost to government: costs that the MMO cannot recover</b>	<b>-£50,006</b>	<b>-£66,674</b>	<b>etc.</b>	<b>-£66,674</b>	<b>-£650,076</b>	<b>-£557,244</b>
Notes:						
1) For information on how recoverable costs were calculated, see Table 2.						
2) The assumption of Policy Option 1 being introduced in April 2014 means that the 2014 cost of licence variation requests and monitoring is 3/4 of the cost in the other years.						
3) Numbers may not add up due to rounding errors.						

The total 10 year present value cost to industry from paying the MMO for licence variation and monitoring is almost £2.6m. The 10 year present value of the costs that cannot be recovered due to the maximum fee ceiling is around £0.56m.

#### *Costs for disposal site monitoring*

38. The fee associated with monitoring dredge material disposal is calculated by multiplying the annual tonnage of material disposed at sea by the fee rate of £0.01 per tonne. Individual fees will be applied to each licence and will be payable annually, based upon the actual volumes of material that have been disposed at the licensed disposal site. However, this fee will be capped at a maximum amount of £15,000; if the dredge material that is disposed of in a particular licensed site in a year is equal to or more than 1.5 million tonnes, then the maximum fee for monitoring this site is £15,000. Otherwise (i.e. for disposals totalling less than 1.5 million tonnes per year), the fee paid will be according to the volume of material disposed.
39. Data provided by Cefas on quantities of dredge material disposal between 2000 - 2011 showed that annually on average, there were 144 sites licensed for disposal and 105 of these sites were used to dispose of a given quantity of dredge material. 99 of the 105 licensed sites were used to dispose of material that amounted to less than 1.5m tonnes per site per year. The average quantity of material disposed per year in each of these 99 sites was 209,258 tonnes. This data also shows that on average, there were 5.75 annual licensed disposals that exceeded 1.5 million tonnes. It is these disposals that will benefit from the introduction of the maximum fee for monitoring dredge disposal sites. A summary of this Cefas provided data is shown at Annex B.
40. To calculate the total cost of the fee associated with monitoring dredge material, it is assumed that the average number of licences used to dispose material, the average quantity of material disposed and the number of licensed disposals that exceed 1.5 million tonnes stay constant over the 10 year period of analysis. This assumption was discussed with the MMO and is deemed to be reasonable since annual figures (as shown in Annex B) do not significantly vary in the 12 year period of the data Cefas provided.
41. This means that the annual fee charged for monitoring the effect of disposals that are of average volume will be around £2.1k and this will be applicable to an average of 99 licensed sites; thus amounting to a fee that industry will pay the MMO of around £208k per year. On the other hand, given that annually, there are on average 5.75 licences that dispose of material exceeding 1.5 million tonnes, the annual total capped fee that will be charged to industry for the MMO to monitor the effect

of disposals will be £86.3k. Together, the total annual cost of monitoring dredge disposal sites that can be recovered by the MMO from industry is around £294k. Table 4 below shows a summary of these costs and the 10 year Net Present Value, assuming that the policy is introduced in April 2014.

Table 4. Dredge disposal site monitoring cost under Policy Option 1

	2014	2015	etc.	2023	10 Year total	10 Year PV
<b>Average weight disposals (209k tonnes disposed per year)</b>						
Annual fee per disposal	-£1,569	-£2,093	etc.	-£2,093	-£20,403	-£17,489
<b>Annual total fee</b>	<b>-£155,897</b>	<b>-£207,863</b>	<b>etc.</b>	<b>-£207,863</b>	<b>-£2,026,662</b>	<b>-£1,737,252</b>
<b>Disposals that equal to or exceed 1.5 million tonnes disposed per year</b>						
Annual capped fee per disposal	-£11,250	-£15,000		-£15,000	-£146,250	-£125,365
<b>Annual total capped fee</b>	<b>-£64,688</b>	<b>-£86,250</b>	<b>etc.</b>	<b>-£86,250</b>	<b>-£840,938</b>	<b>-£720,850</b>
<b>Total cost to industry: dredge disposal monitoring fee that can be recovered by the MMO from industry under Policy Option 1</b>	<b>-£220,585</b>	<b>-£294,113</b>	<b>etc.</b>	<b>-£294,113</b>	<b>-£2,867,600</b>	<b>-£2,458,102</b>
<b>Total cost to government: unrecoverable costs of the MMO dredge disposal site monitoring programme</b>	<b>-£4,415</b>	<b>-£5,887</b>	<b>etc.</b>	<b>-£5,887</b>	<b>-£57,400</b>	<b>-£49,204</b>
Notes:						
1) The total cost to government is the difference between the cost of the disposal site monitoring programme that is incurred under the baseline and the cost that can be recovered from industry from the introduction of Policy Option 1. However, this is incurred under the baseline therefore it is not included in the calculation of the net present value costs/benefits of Policy Option 1.						
2) The assumption of Policy Option 1 being introduced in April 2014 means that the 2014 cost of licence variation requests and monitoring is 3/4 of the cost in the other years.						
3) Numbers may not add up due to rounding errors						

The total 10 year present value cost to industry due to the disposal monitoring fee is almost £2.5m, while the total cost to the MMO due to the unrecoverable cost is almost £0.05m. In the baseline scenario, the MMO already incurs an annual cost of £300k for monitoring dredge disposal material (see paragraph 22), but due to the introduction of the cost recovery system, it can recover part of this cost. This means that the £0.05m unrecoverable cost to the MMO of its dredge disposal site monitoring programme is not an additional cost. It is only shown in this table to illustrate the extent of the costs that the MMO incurs relative to the cost that it can recover.

#### *Other ongoing costs related to payment of the fees*

42. Industry will also incur costs related to the time and effort involved in paying the appropriate fees to the MMO. This cost will depend on the time it takes for the business to make the payment, but this cost is likely to be very small. A monetary estimate of this cost is not provided in this Impact Assessment.

#### *Benefits*

43. The cost that the MMO can recover from industry through the fees on licence variation applications and monitoring (including monitoring of the effects of dredge material disposal) means that there are cost savings to the MMO. Alternatively, these fees that industry pay to the MMO for licence variation applications and monitoring can be considered as an income for the MMO. Either way, this cost saving/income received is considered as a benefit to the MMO.

44. From Tables 3 and 4 above, these recoverable costs or benefits to the MMO amount to a total Net Present Value of around £5 million. Around £2.6 million comes from the fees paid for licence variation and monitoring of licence conditions, and less than £2.5million comes from fees paid for disposal site monitoring. The costs that the MMO cannot recover are due to the introduction of the maximum fee ceilings in Policy Option 1.

45. There are also others in industry that will benefit from a level playing field through the introduction of fees for the monitoring of dredge disposal sites. Under the baseline option, there are equity issues between licence applicants/holders whose activities are within the scope of the Marine Works (Environmental Impact Assessment) Regulations and those whose activities are outside the scope (i.e. those that undertake dredge material disposal activities). The former is subject to monitoring

costs while the latter is not. The introduction of the cost recovery system means that all license applicants/holders are treated equally. However, this benefit is not monetised in this Impact Assessment due to difficulties in measuring its extent and value.

### *Equivalent Annual Net Cost to Business (EANCB)*

46. The EANCB is the annualised value of the present value net costs to businesses. This includes both annual transitional and on-going costs and benefits that come from the introduction of a policy. For this Impact Assessment, the time period used in the calculation of the EANCB is 10 years and the discount rate used is 3.5% as outlined in the HM Treasury Green Book. The EANCB is calculated on a calendar year basis and is expressed in 2009 prices.
47. The costs to businesses that have been included in the calculation of the EANCB are the monetised on-going annual costs from the fees for licence variation requests and monitoring (including dredge material disposal monitoring). The total 10 year present value cost to businesses is £5.02 million, which translates to an EANCB of £0.46m (per year, in 2009 prices). However, this does not include the costs that have not been monetised (i.e. costs of setting up the system to pay the MMO and administrative costs related to paying the fees) since these costs are likely to be very small.

### *Administrative burden*

48. Administrative burden includes costs associated with familiarisation with administrative requirements, record keeping and reporting, including inspection and enforcement of Regulation<sup>4</sup>. The cost recovery system proposed under Policy Option 1 does not subject industry or license holders/applicants to undertake any activities associated with administrative burden. This means that there are no anticipated costs from administrative burden from the introduction of the cost recovery system.

### **Risks**

49. If Policy Option 1 is not implemented, there is a future risk that the MMO will treat requests to vary licences as new applications instead. They could also issue shorter licences potentially leading to extra costs and administrative burdens for industry because businesses would need to apply for licences more frequently. This cost is likely to be greater than the cost industry will incur for licence variation requests under Policy Option 1.
50. If the MMO can charge for processing licence variation requests, industry can then benefit from a cost saving that is at least equal to the difference between the cost of a new license application and the cost of a licence variation. However, the baseline assessment assumes that the cost of licence variation requests will continue to be incurred by the MMO and that currently, there is no risk of the MMO treating these as new applications.

### **Consultation**

51. An informal consultation began on 12<sup>th</sup> July and ran for 8 weeks, closing on 5<sup>th</sup> September 2013. This consultation together with the consultation IA can be viewed at:

[https://consult.defra.gov.uk/biodiversity/marine\\_licensing\\_charges\\_monitoring\\_and\\_varying\\_li](https://consult.defra.gov.uk/biodiversity/marine_licensing_charges_monitoring_and_varying_li)

Stakeholders such as all marine users, those who have an interest in the marine environment, local authorities, NGOs, Ports and Harbour Authorities, Recreational and Leisure Groups, Water and Water Industries, Energy Industries and Commercial Fisherman Organisations were invited to respond. A total of 26 responses were received. Most respondents understood the overall principle and recognised the need to recover costs. Only 4 disagreed with the proposal. The main issues identified by the consultation were:

- a) The overall level of fees for marine licensing and impacts on smaller businesses and organisations;

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<sup>4</sup> Source: Better Regulation Framework Manual V2.0; paragraph 2.3.39

- b) Proportionality, efficiency and transparency;
  - c) Rationale and method of charging for monitoring;
  - d) Rationale for charging for simple administrative changes for variations;
  - e) Method of charging for complex variations;
  - f) Processing matters.
52. Several issues, particularly a, b, and f, were relevant also to a separate consultation on the MMO's overall fees structure since they raised questions of wider concern than the powers of the MMO to charge for certain functions. These will be picked up in the Government's response to that consultation. However, the consultation also confirmed a need for the MMO to communicate clearly the basis for charging on both variation and monitoring; ensure consistency in processing times between caseworkers and allow stakeholders the opportunity to review and provide feedback on the MMO's performance.
53. The Government's and the MMO's aims are to ensure that the administration of marine licensing is as efficient as possible, but also to fully recover the costs of administering marine licences, avoiding cross-subsidisation and excessive burdens on smaller projects. Monitoring will be limited to ensuring that licence conditions are being complied with; minor projects will often not require any monitoring at all. The Order will clarify the definition of basic administrative changes for licence variations, while for more complex variations the MMO will provide estimates of likely costs to applicants. The MMO will evaluate its performance through its Stakeholder Forum Group, Customer Satisfaction Survey and Key Performance Indicators.
54. The overall policy proposal of fee recovery is unchanged in this final Impact Assessment. Treasury had in principle agreed for us to consult recognising that the final Impact Assessment data would change. The impact of the changes were set out clearly in the consultation document itself, and that has not changed. The main change made since the consultation period is the use of updated data on MMO costs. The consultation stage Impact Assessment was based on data from only the first six months of the start of the licensing system. While this was the best available at the time the preliminary nature of the data was noted in the consultation stage Impact Assessment.
55. For this Impact Assessment the MMO have more realistic data from the start of the licensing system (April 2011) up to when the fees review was completed at the end of 2012. The most recent updated data shows overall costs to the MMO of the licences of £673,602 in total (see Table 1 above) of which £601,041 is proposed to be recovered. The preliminary data used in the consultation stage Impact Assessment estimated lower recoverable annual costs of around £325,000. The difference reflects both changes in estimated hours worked on cases and hourly MMO fees.
56. In this final Impact Assessment the variations and monitoring fees are categorised more simply and with Treasury's request, are based on maximum fee ceilings. The MMO will apply maximum ceilings to define categories of variations and monitoring. The cost of processing variations and the time spent monitoring post consent reports (for non-EIA projects) will be charged principally on a casework hourly basis and will be consistent with the rates proposed in the fees and charges consultation. These charges make a direct comparison with the fee categories presented in the consultation Impact Assessment not readily possible.

### Specific impact tests

57. Since these proposals concern cost recovery through the introduction of fees and charges, we are not expecting a direct impact on the number or type of licence applications – unless in the absence of the proposed changes MMO decide to issue shorter licences. In which case, the number of applications would increase. But there would be no change in the nature or extent of activity. Therefore, we envisage no impact, on **carbon emissions**, **competition** or the **justice system**.
58. We also expect that the proposals will not have any effect in terms of the environment, since the proposals are only about the recovery of costs. We expect no other economic impact, and no impact as far as health or equality.
59. We do not believe that the proposals will disproportionately affect **SMEs**. The introduction of maximum fee ceilings would particularly benefit to smaller operators. Additionally, information on past licence applications suggest that it is the larger ports that apply for licences to dispose of

dredged material. This may be because many smaller ports use maintenance dredging techniques that do not involve disposal (e.g. plough dredging).

### **Small and Micro Business Assessment**

60. The monitoring costs where there is currently a funding gap largely apply to the major ports. The maximum fee ceilings proposed will benefit small and microbusiness as few if any businesses with less than 49 to 10 employees dispose of dredged material at sea. Fee ceilings will provide certainty to applicants to allow for simpler financial planning whilst avoiding risks of cross-subsidy between applicants.
61. The exemption of microbusiness would mean that any costs which would have been paid by microbusiness would be distributed among other businesses or borne by the taxpayer.

### **One-in, two out (OITO)**

62. Ministers decided in the Reducing Regulation Committee meeting on 14 December 2010 that cost recovery should be outside the scope of the one-in, one-out rule unless the change in cost results from a change in regulatory activity. This one-in, one-out rule has been replaced by the one-in, two-out rule since January 2013 but the scope of the rule is still the same. The change in costs in this Impact Assessment as a result of adopting Option 1 would entirely be from moving to cost recovery. Therefore the changes in this IA are considered outside the scope of the one-in, two-out rule.

### **Summary and Implementation Plan**

63. The key objective of Option 1 is to enable the MMO to recover the costs of administering marine licences for monitoring and variations. It is the Government's policy that those who carry out an activity should bear its full cost and not the taxpayer. Currently the annual loss of income to the MMO from not being able to recover costs for monitoring and variations has had to be funded through Government subsidy in the last two years.
64. The review of the current fees structure has taken into consideration the costs of which are the subject to this IA. The level of the fee for monitoring and variations will be included in the Order and will be based on the MMO's hourly rate with maximum ceilings for simple administrative or routine projects. For monitoring associated with licences for dredged material disposal the fee will be based on annual tonnage of material disposed. Maximum ceilings would provide applicants with greater confidence on efficiencies and transparency and be of particular benefit to smaller operators.
65. The Public Bodies Bill includes the required primary legislation to provide powers for the MMO to introduce a charging scheme. However, the bodies listed within the schedules of the Bill are subject to sunset, Orders made, for example in respect of charging powers, will survive the removal of the body from the Act and will remain in force.
66. The charging scheme will be assessed in June 2016, to ensure that it is achieving its desired outcomes that it was designed to achieve and if necessary make any required adjustments.
67. This impact assessment has been based on the assumption that the Order would come into force in April 2014. However it is recognised that implementation will depend on Parliamentary Scrutiny and clearance of super affirmative Orders made under the Public Bodies Act, which could delay coming into force until later in 2014.

## Annex 1

### Post Implementation Review (PIR) Plan

**Basis of the review:** A review will be carried out in June 2016 and this will also take account of the sun set clause in the Public Bodies Act.

**Review objective:** The purpose of the review is to identify whether the policy on licensing fees is achieving the goals of transparency, efficiency, certainty and a limit on new burdens which are set out in Tables 2 and 3.

**Review approach and rational:** The Review will consider actual cost recovery in 2014/15 against the costs incurred by the MMO.

**Baseline:** The baseline position is the fees that apply to licence applications under the Marine Licence (Application Fees) Regulations 2011.

**Success criteria:** The policy will be considered successful if it achieves the objectives of transparency, efficiency, certainty and a limit on new burdens.

**Monitoring information arrangements:** MMO and their scientific advisers, Cefas, have recording systems in place to capture the effort that they spend on individual applications.

**Reasons for not planning a PIR:** N/A

## Annex 2 Forecast total annual costs of operating the MMO's marine licence function, broken down according to specific cost category

### Forecast annual cost for operating the MMO's marine licence function

<b>Cost Category</b>	<b>2013-14 £ constant price</b>
Licensing Team Pay including on costs (Employer NIC and Employer Pension)	1,128,000
MMO Support Staff Pay including on costs (Employer NIC and Employer Pension)	120,000
Licensing Overhead	396,000
Accommodation Overhead <sup>a</sup>	72,000
IT Overhead	197,000
Shared Service Centre Overhead (transaction processing)	80,000
Amortisation of Licensing intangible assets <sup>b</sup>	98,000
Cefas scientific costs	1,426,055
<b>Total recoverable costs<sup>c</sup></b>	<b>3,517,055</b>
<sup>a</sup> Accommodation overhead is an apportioned cost that includes annual Lancaster House (MMO Headquarters in Newcastle upon Tyne) and Defra estates charges, telephone, office equipment and stationery. <sup>b</sup> Amortisation is the practice of decreasing the value of an asset over time (i.e. depreciation). The amortisation of licensing intangible assets include the annual amortisation costs of capital investment in licensing intangible assets including the Marine Case Management System. <sup>c</sup> included in the total cost of running the MMO's marine licence function are costs to the MMO of undertaking monitoring on activities not subject to EIA and of processing licence variation applications.	

Within this total cost of £3.5m are the cost of reviewing monitoring reports required from licence holders, the cost of monitoring dredge material disposal sites and the cost of processing licence variation applications. These costs are discussed in more detail in the Baseline section of the Impact Assessment.

**Annex A. Different ‘functions’ under the proposed structure for variations and monitoring (excluding disposal site monitoring) and charging bases**

<b>Function</b>	<b>Description</b>	<b>Charging basis</b>
<b>New structure variations</b>		
Variation 1	A request to change the name or address of an agent, contractor or sub-contractor on a marine licence; changes to the name of a vessel or registration number of a vehicle; transferring the licence from the licensee to another named person (except for transfers to nationally significant infrastructure projects issued under the Planning Act 2008)	Hourly with a fee ceiling of £50
Variation 2	A request to change a marine licence, other than those included in Variation 1, which does not require the MMO to consult our advisors.	Hourly with a fee ceiling of £200
Variation 3	A request to change a marine licence that does require the MMO to consult with our advisors including transfers of a licence from the licensee to another named person when the licence was for a nationally significant infrastructure projects issued under the Planning Act 2008.	Hourly with no fee ceiling
<b>New structure monitoring</b>		
Routine projects	Monitoring a licensee’s compliance with any conditions attached to a marine licence where the application for that licence was accompanied by a fixed fee or limited hourly fee.	Hourly with a fee ceiling of £750
Complex projects	Monitoring a licensee’s compliance with any conditions attached to a marine licence where the application for that licence was accompanied by an unlimited hourly fee.	Hourly with no fee ceiling



Annex B. Summary of dredge disposal data on number of licenses and amount disposed

Year	Number of disposal licenses issued	Number of licenses that disposed	Number of licenses that disposed of material less than 1.5 million tonnes	Number of disposals that exceeded 1.5 million tonnes	Average disposal weight (million tonnes)	Total disposal weight (million tonnes)
2000	150	102	96	6	0.22	32.59
2001	149	111	103	8	0.23	35.01
2002	135	98	92	6	0.23	30.99
2003	132	102	97	5	0.24	32.03
2004	133	100	94	6	0.23	30.16
2005	144	104	98	6	0.22	30.97
2006	146	115	109	6	0.12	28.93
2007	148	101	95	6	0.22	32.08
2008	147	104	98	6	0.22	32.59
2009	144	107	100	7	0.22	31.47
2010	146	112	108	4	0.19	27.61
2011	159	105	102	3	0.18	25.73
<b>Average values over the 12 year period</b>	<b>144.42</b>	<b>105.08</b>	<b>99.33</b>	<b>5.75</b>	<b>0.21</b>	<b>30.85</b>

**Note:**  
Dredge disposal monitoring fee is calculated by charging £0.01 per tonne disposed per license. However, the charge will be capped at £15,000 (equivalent of 1.5 million tonnes or more of material disposed).