

 Regulatory Policy Committee	Validation of the One-in, Two-out Status and the Net Direct Impact on Business
Validation Impact Assessment (IA)	Changes to Town and Country Planning (Development Management Procedure) (England) Order 2010 for onshore oil and gas extraction
Lead Department/Agency	Department for Communities and Local Government
IA Number	Not provided
Origin	Domestic
Expected date of implementation (and SNR number)	November 2013 (SNR 6)
Date of Regulatory Triage Confirmation	21/08/2013
Date submitted to RPC	28/11/2013
Date of RPC Validation	09/01/2014
RPC reference	RPC13-FT-DCLG-1864(2)
Departmental Assessment	
One-in, Two-out status	Zero Net Cost
Estimate of the Equivalent Annual Net Cost to Business (EANCB)	N/A
RPC assessment	VALIDATED
Background (extracts from IA) What is the problem under consideration? Why is government intervention necessary? <i>The preparation of planning practice guidance on onshore oil and gas in the first half of 2013 identified areas where the regulatory regime could be improved. Therefore, when the Government published its planning practice guidance, it announced its intention to consider proposals to improve the regime for application requirements and fees in England. There are two key matters under consideration: i) improving the application process by changing requirements for how to notify landowners; and ii) clarifying how to calculate the level of fees payable to the local planning authority for applications of onshore oil and gas development.</i> <i>The Government also proposed to clarify the arrangements for calculating fees payable for the exploration and production of oil and gas. It also proposes to increase the fees by 10%, accepting an offer made by the UK Onshore Oil and Gas Association, in recognition of the increased public scrutiny that may result from such applications, particularly on any work involving shale gas. However, in line with clause 1.9.8, section vii of the Better</i>	

Regulation Framework Manual, the uprating of any fees is outside the scope of One In Two Out, and the costs to business incurred by this increase should not be counted under One In Two Out.

What are the policy objectives and the intended effects?

The intention of the proposed changes to secondary legislation is to make the procedural requirements for oil and gas extraction less onerous. Our proposals are two-fold:

i) to streamline the requirements to notify landowners of applications on their land. The extent of underground working for oil and gas development is different to other forms of development under land. It has a very small surface area (typically 1-2 hectares maximum), and exploration/extraction takes place many hundreds or thousands of metres below the surface. Since the exact route of any drilling is not known at the time of application (as it will depend on the geology), the underground area where the oil and gas is removed is not always clearly defined.

Given the unique nature of oil and gas extraction, and to take account of new extraction technology, it is considered desirable to introduce a more proportionate and flexible approach, with less onerous notification requirements, for applicants for onshore oil and gas development. The measures under consideration will still protect the rights of landowners to be given notice of, and hence make representations on, proposed applications but take account of the uncertainties surrounding the sub-surface issues at such great depth.

ii) to introduce a standard planning application form for applications for onshore oil and gas development. This is partly in response to claims that forms in some authorities are unnecessarily complex, but is principally to deal with the transaction costs that the lack of standardisation imposes on developers who submit minerals applications in different areas of the country.

RPC comments

The two measures listed above (i and ii) formed the overall proposal in the Department's Regulatory Triage Assessment (RTA) of 12 August 2013. The IA describes how these measures streamline the existing notification procedures and why this would be beneficial to prospective applicants for onshore oil and gas development. The IA explains that the consultation did not provide specific information to enable monetisation of this benefit. It also explains why the number of applications involved, would in any case be relatively small (paragraph 35, page 8). The consultation did, however, indicate that industry saw "no net cost to business" resulting from these proposals (paragraph 38, page 8). On this basis, the classification of Zero Net Cost for these two proposals is reasonable.

The overall proposal now includes a third measure that was not in the RTA. This is the 10% increase in the fees payable to local authorities for dealing

with applications for onshore oil and gas exploration/development, as referred to in the background section above. The Department says *“In line with clause 1.9.8, section vii of the Better Regulation Framework Manual, the uprating of any fees is outside the scope of One In Two Out...”* (Paragraph 37, page 8). On the basis that the increase in fees reflects *“increased costs [to local authorities] of processing applications which may be subject to increased public scrutiny”* (page 3), it would appear that this measure does not increase regulatory activity (compared to the counterfactual) and therefore that the assessment that this measure is out of scope of OITO is reasonable.

This proposal was approved for the fast track at RTA stage as a deregulatory measure. The Department has now added a third measure, the fee increase. Although out of scope of OITO, this measure is not deregulatory. This measure - and all three measures together - appears to be low cost from the Validation IA. Nevertheless, the Department should have either submitted a full IA at final stage or come back for re-approval for the fast track as low-cost regulatory.

Signed

A handwritten signature in black ink, appearing to read "Michael Gibbons", with a long horizontal line underneath it.

Michael Gibbons, Chairman