

Marine Licensing: Navigational dredging and other exemptions

14 August 2012

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Marinelicensing.Consultation@defra.gsi.gov.uk

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1. Purpose of the document

1.1 The purpose of this consultation is to seek your views on proposals for a number of modifications to the list of activities that are exempted from the requirement for a marine licence under the Marine and Coastal Access Act 2009. The current list of exemptions can be found in the Marine Licensing (Exempted Activities) Order 2011 No. 409¹.

1.2 The consultation applies to English waters only and where the Secretary of State is the licensing authority².

1.3 The Government seeks your views on proposals to amend some of the existing exemptions and introduce new exemptions where the risks to the environment, human health and other uses of the sea are minimal. Please consider the following questions below:

- A. Do you agree with the Government's overall approach to the exemption of activities that would otherwise require a marine licence?**
- B. Do you have comments on the various options put forward to exempt lower risk navigational dredging activities or otherwise reduce the burden on operators?**
- C. Do you agree with the proposed amendments to existing exemptions?**
- D. Do you agree with the proposals for new exemptions?**
- E. Do you have comments on the effectiveness of other existing exemptions?**
- F. Are there other options that should be considered?**
- G. Do you have comments on the estimates of costs and benefits contained in Annex B; do you have alternative evidence related to the data or assumptions used in the analysis?**

¹ <http://www.legislation.gov.uk/uksi/2011/409/contents/made> (certain dredging activities undertaken by Harbour Authorities are exempt under section 75 of the MCAA)

² The Welsh Government acting on behalf of the Welsh Ministers who are responsible for marine licensing in the Welsh inshore waters and the Department of the Environment (DOE) acting on behalf of Northern Ireland Ministers who are responsible for marine licensing in Northern Ireland inshore waters have no proposals for amending the marine licence exemptions for Wales or Northern Ireland. However, Welsh Government and DOENI will continue to engage with Defra as this consultation exercise moves forward. Although the 2 year transitional period for navigational dredging contained in the Marine and Coastal Access Act 2009 (Transitional Provisions) Order 2012 applies to Scottish Offshore waters, the Scottish Government is not participating in this consultation exercise.

The following questions are contained in the text at the paragraphs indicated:

- H. Would Harbour Authorities want to have the authority to licence activities on behalf of the Marine Management Organisation (MMO)? (paragraph 4.22)**
- I. Where a Harbour Authority is interested in pursuing/trialling this option, how would they ensure that the functions of licensing and associated activities would remain compatible with the purpose for which the Harbour Authority was established? (paragraph 4.22)**
- J. Do consultees have any views as to an appropriate definition of “temporary”? (paragraph 4.24)**
- K. We would welcome suggestions on an appropriate definition for “temporary”, with regard to marker buoys for recreational activities. (paragraph 4.29)**

1.4 This consultation is focussed on exemptions. However, some questions have been raised about whether certain activities are licensable in the first place. These are addressed in paragraph 4.42.

1.5 Further consultations are envisaged in the coming months on a revision to the fees and charges for marine licensing and powers enabling the Marine Management Organisation to charge for monitoring and the varying of licences.

2. The consultation process

Who will be affected by these proposals?

2.1 This consultation document is directed at anyone interested in the way activities that take place at sea are regulated. This consultation is of particular interest to you if you are involved with the following activities:

- Deposits of substances or objects
- Removing objects and substances from the seabed
- Dredging
- Constructing, altering and improving works

2.2 We expect this consultation to be of interest to business, operators and individuals that carry out these activities and conservation bodies and environmental groups that are concerned about their effect on the marine environment, navigational matters and human health. Many other people and groups are also concerned about what takes place on our coasts and in the seas around us and may therefore have an interest in these proposals.

Timing and duration of this consultation

2.3 This consultation lasts for 10 weeks and ends on 22 October 2012.

2.4 In line with the Government's policy of openness, the information you submit may be made available to other parties. If you do not consent to this, you must clearly request that your response be treated as confidential. Any confidentiality disclaimer generated by your IT system in e-mail responses will not be treated as such a request. You should be aware that there may be circumstances in which we will be required to communicate this information to third parties on request in order to comply with our obligations under the Freedom of Information Act 2000 and the Environmental Information Regulations 2004.

Glossary

2.5 Below are some commonly used terms and acronyms used throughout this document :

EIA	Environmental Impact Assessment
Exemption Order	Marine Licensing (Exempted Activities) Order 2011 No. 409
FEPA	Food and Environment Protection Act 1985

MCAA	Marine and Coastal Access Act 2009
Marine Licence	Licence issued under Part 4 of the Marine and Coastal Access Act
MCZ	Marine Conservation Zone
MMO	Marine Management Organisation
WFD	Water Framework Directive

Responses to the consultation

2.6 Responses to the consultation should be sent so that they are received no later than 22 October 2012 to the following address:

Department for Environment, Food and Rural Affairs (Defra)

Sustainable Marine Development and Climate Impacts Team

Area 2D Nobel House

17 Smith Square

London SW1P 3JR

Email to: Marinelicensing.Consultation@defra.gsi.gov.uk

3. Introduction

The Marine and Coastal Access Act 2009 and marine licensing

3.1 The Marine and Coastal Access Act 2009 (MCAA) is designed to help us to achieve *clean, healthy, safe, productive and biologically diverse oceans and seas*. It provides for the better protection of our marine environment; sustainable use of our 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.

3.2 Part 4 of the Act, brought in a new streamlined marine licensing system for most UK waters³. 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.

3.3 Under the MCAA certain marine licensing functions are given to the “appropriate licensing authority”, which for example is the Secretary of State in English waters. Apart from a number of powers that are retained by the Secretary of State, most licensing functions in England, including enforcement, have been delegated by Order to the Marine Management Organisation (MMO), a non-departmental public body set up under the Act. Where this consultation document refers to the licensing authority, it will generally mean the MMO acting under the powers that have been delegated to it.

3.4 The purpose of marine licensing, together with the new marine planning system also brought in by the MCAA, is to facilitate the sustainable use of the UK marine environment so that economically beneficial activities within the marine environment such as construction, deposits (e.g. of sediment), removals (e.g. of marine aggregates), and dredging can be permitted whilst minimising negative environmental effects and avoiding interference with navigation.

3.5 Licensable activities are assessed for their benefits and any potential adverse effects before being consented. Certain licensable marine activities may need to undergo an environmental impact assessment (under the Marine Works Regulations⁴) or an appropriate assessment (under the Habitats Regulations⁵) in order to comply with EU

³ The licensing system under the Act applies to activities conducted in territorial waters around England, Wales and Northern Ireland and for all UK waters beyond 12 nautical miles as measured from the baseline of the territorial sea and for certain activities done or controlled by British vessels, aircrafts or structures anywhere at sea. The Marine (Scotland) Act 2010 applies to Scottish territorial seas)

⁴ The Marine Works Regulations mean the Marine Works (Environmental Impact Assessment) Regulations 2007 (S.I. 2007/1518 as amended by S.I. 2011/735) which implement European Council Directive 85/337/EEC, as amended)

⁵ Habitats Regulations means the Conservation of Habitats and Species Regulations 2010 (S.I. 2010/490) and the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007 (S.I. 2007/1842 as amended by S.I. 2010/491) which implement Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora and Council Directive 2009/147/EC on the conservation of wild birds.

Directives. In granting a marine licence the MMO, Secretary of State or the regulators in the devolved administrations can include conditions necessary to ensure that the activity does not cause harm. The MCAA also introduced a new appeals system, enabling people to appeal against licence decisions, enforcement notices or penalties.

What is meant by licensable activities and how exemptions work

3.6 Section 66 of the MCAA lists those types of activity that are licensable. A summary of the main types of activity licensed by the MMO is provided in the table below – the MMO received 455 MCAA licence applications in 2011/12, of which 294 were determined within that year. Certain specific activities are then exempted from the requirement for a licence either within the Act itself or through the Marine Licensing (Exempted Activities) Order 2011 No. 409 (the “Exemptions Order”).

3.7 The purpose of the Exemptions Order is to ensure that the regulatory burden is proportionate, where otherwise licensable activities are considered to be low risk or adequately managed through other means. These other means may be statutory, for example, regulated under the Petroleum Act⁶, or non-statutory as in the case of oil chemical dispersants where the MMO approve rather than licence usage in view of the need for rapid response.

Marine licences processed in 2011/12 (MMO)

Activity type	Number of licences
Alternative uses for dredged material	9
Burial at sea	6
Dredging and disposals	33
Sediment sampling	64
Removals	20
Pipes/pipelines	22
Coastal defences	13
Harbour works	37
Ground investigation	11
Like for like works	15
Piers	24
Slipways	8
Other	32
TOTAL	294

⁶ Petroleum Act 1998 ([SI 1998/17](#))

3.8 Guidance on the MMO website gives more details about which activities are non licensable, licensable or licensable but exempted.

3.9 Whilst it is too early to make a full assessment of the impact of the new licensing system, feedback from stakeholders has been generally positive. In a recent MMO stakeholder survey 83% of those asked said they understood the role of the MMO and around two thirds agreed that the MMO worked effectively with delivery partners and were transparent, consistent and took steps to engage people in planning and decision making processes.

3.10 Stakeholders also mentioned that in some instances they wanted increased clarification of new processes and fees structures. The MMO has responded to this by implementing a quarterly stakeholder focus group and revising external and internal guidance notes.

3.11 Feedback during a review of water and marine legislation, undertaken as part of the Government's Red Tape Challenge⁷, recognises the importance of having an effective protection of the marine environment but also highlights several areas of concern about the costs of licensing, duplication and overlap between different consenting systems, the licensing of low risk activities, and how some of the legislation is implemented in practice.

3.12 The Government will be publishing its decisions on the Red Tape Challenge water and marine theme later this year. This consultation on exemptions is intended to complement that process and help to ensure that early action can be taken to reduce the burden of marine licensing whilst maintaining a high level of environmental protection.

⁷ <http://www.redtapechallenge.cabinetoffice.gov.uk/themehome/water-and-marine/>

4. Options for change

4.1 The proposed new exemptions and modifications to existing exemptions draw on experience from the first year of implementation of marine licensing and the feedback that has been obtained during the Red Tape Challenge. The changes are intended to ensure that licensing is proportionate to the risk to the environment, human health and other users of the sea and that its operation is as efficient as possible.

4.2 Apart from the specific proposals that are made here, comment is also invited on other aspects of the current Exemptions Order. In making any changes to marine licensing exemptions, and as required under section 74(4) of the MCAA, the Government will have regard to:

- (a) the need to protect the environment,
 - (b) the need to protect human health,
 - (c) the need to prevent interference with legitimate uses of the sea,
- and such other matters as the authority thinks relevant.

Comments are invited on how any of the options described below might affect these factors.

Navigational Dredging – background

4.3 Most marine dredging is carried out for the purposes of navigation and is essential to the functioning of ports and marinas. There are a number of potential risks from dredging including effects on coastal processes, water quality, habitats and fisheries, as well as interference with other marine users.

4.4 The MCAA introduced new provisions which made dredging a licensable activity in its own right. Under previous legislation a dredging operation may have required consent if it was disposing of the dredged materials at sea or if there was a risk of interference with navigation. On the other hand, certain forms of maintenance dredging⁸, such as hydrodynamic dredging where the sediment is relocated within the water body, may have required no licence at all.

⁸ Capital dredging is defined by the MMO as material arising from the excavation of the seabed, generally for construction or navigational purposes, in an area or down to a level (relative to Ordnance Datum) not previously dredged during the preceding 10 years. Maintenance dredging is defined as material (generally of an unconsolidated nature) arising from an area where the level of the seabed to be achieved by the dredging proposed is not lower (relative to Ordnance Datum), than it has been at any time during the preceding 10 years; or from an area for which there is evidence that dredging has previously been undertaken to that level (or lower) during that period.

4.5 The MCAA made it clear that unless the dredging activity was explicitly exempted from licensing, it would need a marine licence. Since this was a new licensable activity the Act included a one year transition period to help operators adjust to the change. Section 75 of the Act exempts most dredging done by or on behalf of Harbour Authorities.

4.6 The intention behind the change was to provide appropriate control of navigational dredging, ensuring the protection of the environment and compliance with key environmental Directives, including the Habitats, Environmental Impact Assessment (EIA) and Water Framework (WFD) Directives⁹. However, the Government is concerned that in English waters there are a large number of small-scale maintenance dredging operations, for example those often carried out by marinas, that should pose little or no environmental risk and where the requirement for a licence may therefore be unduly onerous.

4.7 The Government has therefore taken action to extend the transition period¹⁰. Most dredging projects which were covered by the one year transition period under the MCAA now benefit from a further two year transition period and will not require a marine licence unless it is needed to ensure compliance with relevant EU environmental legislation. This is explained in the Navigational Dredging Operational Guidance and accompanying Water Framework Directive water body information table that have been produced to help potential applicants determine if they need to apply for a marine licence¹¹. This extended transition period will continue to reduce the burden on some lower risk operators whilst the Government considers the scope for further exemptions.

4.8 The options presented below are aimed at exempting lower risk activities or otherwise reducing the burden on operators. Risk is not simply linked to the scale of a dredging operation but also to other factors such as the sediment condition, location and dredging technique. It is likely therefore that exemptions will either need to be backed up by a more strategic level of assessment (e.g. of the whole water body) or be subject to exceptions or “carve-outs” to ensure compliance with EU legislation.

4.9 Options (i) and (ii) propose two possible approaches for exempting certain navigational activities from marine licensing. Options (iii) and (iv) aim to reduce the burden on operators where licences would still be required. These options are not mutually exclusive and it is envisaged that some or all could be applied as a package. Annex B summarises the estimated impact of each option and their cumulative effect.

4.10 Extraction of marine aggregates by dredging continues, as before, to be a licensable activity in all UK inshore and offshore waters. All dredging operations involving

⁹ Water Framework Directive 2000/60/EC (as amended) is implemented in England by the Water Environment (Water Framework Directive) (England and Wales) Regulations 2003

¹⁰ [The Marine and Coastal Access Act 2009 \(Transitional Provisions\) Order 2012](#)

¹¹ [Navigational Dredging Operational Guidance](#)

disposal at sea would continue to be licensable in accordance with the UK's international obligations.

Navigational dredging options under consideration

i. Exempt minor dredging activities from the requirement for a marine licence, subject to a “carve-out” to ensure EU compliance

The main features of this option are:

- a. The exemption could apply to “de minimis” dredging activities that are highly unlikely to have adverse environmental effects or interfere with navigational safety;
- b. The de minimis threshold could be set at around 500m³ per dredging “campaign”; no more than three such campaigns per annum;
- c. A “carve out” would ensure compliance with relevant EU legislation: i.e. the Habitats, EIA and Water Framework Directives. Whilst such small activities would be very unlikely to have adverse effects, we cannot entirely rule out the possibility in particularly sensitive sites or where there are cumulative effects.

4.11 A “carve out” provision would mean that the exemption did not apply if the activity is likely (whether alone or in combination) to have a significant effect on an inshore or offshore European Marine Site¹², cause damage to a body of water and/or is a project in accordance with [Annex I or II of the Environmental Impact Assessment Directive](#)¹³. The Order providing for the two year extension of the transitional period provides a possible model for this. As with several current exemptions, this carve out could be extended to cases where the activity could have a significant effect on other sorts of protected site, such as Ramsar sites¹⁴ and Marine Conservation Zones (MCZs)¹⁵. Further guidance would need to be provided by the MMO to help operators check compliance.

ii. Exempt dredging activities if they are included in a Maintenance Dredging Protocol approved by the licensing authority, subject to “carve-out” to ensure compliance with other EU legislation

The main features of this option are:

¹² European inshore marine site as defined within the meaning of Regulation 8(1) of the [Conservation of Habitats and Species Regulations 2010](#) and European offshore Marine site as defined within the meaning of Regulation 15 of the [Offshore Marine Conservation \(Natural Habitats, &c.\) Regulations 2007](#)

¹³ Environmental Impact Assessment, EU Directive 85/337/EEC, as amended)

¹⁴ [Ramsar sites](#)

¹⁵ [Marine Conservation Zones](#)

- a. Dredging activities specifically covered by a Maintenance Dredging Protocol (MDP)¹⁶ would be exempt from the requirement for a marine licence on the basis that they had already been assessed for their potential impact on European Sites and not found to have any Likely Significant Effect (LSE);
- b. The MDP and subsequent amendments to it would need to be approved for this purpose by the MMO, with advice from Natural England, the Government's advisor on the natural environment;
- c. As with option (i) a carve out would be required so that the exemption would not apply where the activity could cause damage to a body of water and/or is a project in accordance with Annex I or II of the EIA Directive; an extended MDP could however widen its scope to address compliance with the WFD, potentially removing the need for each dredging activity to undergo a separate WFD assessment;
- d. MDPs could potentially be developed in estuaries with no European Sites – so could review evidence of potential effects on water body status and other sorts of protected site such as MCZs;
- e. The exemption would not apply to disposal at sea;
- f. The exemption could be conditional on having the consent of the Harbour Authority, to ensure that the activity is compliant with the MDP and takes account of other local factors such as navigational safety; the MMO would also need to be notified of the activity in order to check compliance.

4.12 This option is designed to deal with larger scale ongoing maintenance dredging operations, assuming that more minor dredging has been exempted under option (i). New capital dredging activity or dredging involving disposal at sea would still require a licence as they would have done under the Food and Environment Protection Act 1985 (FEPA) and/or Coastal Protection Act 1949.

4.13 Rather than require separate assessments for each dredging activity, the aim would be to encourage one strategic assessment covering all dredging activity within a particular water body. This would be a more effective and efficient way of ensuring compliance with

¹⁶ The Maintenance Dredging Protocol (MDP) was developed to provide assistance to operators and regulators seeking or giving approval for maintenance dredging activities that could potentially affect European sites. It provides a streamlined approach which allows effects to be assessed without placing a disproportionate burden on those commissioning or approving maintenance dredging operations, avoiding the need to consider an Appropriate Assessment for each and every licence application or renewal.

The MDP includes the production of a Baseline Document which brings together all relevant, readily available current and historical data on dredging activities within the area concerned, and analyses the potential effects (if any) which those dredging operations could have on the interest features of the European sites. The baseline document will usually be commissioned or prepared by the harbour/port/navigation authority(s) for the area concerned. It aims to provide a consistent basis against which competent authorities can assess maintenance dredging operations and assist them in identifying any 'likely significant effect' (LSE) in respect of future maintenance dredging applications or proposals, taking into account in-combination effects of dredging proposals.

the Habitats Directive and potentially other legislation. Whilst operators would need to co-operate in the first instance to fund such an assessment, there could be significant long term savings from not having to commission separate assessments for all dredging activities.

4.14 There are a number of complex issues which would need to be resolved in order to progress this option, notably the scope and ownership of the MDP, how it is to be approved and reviewed, and the implications for regulators and statutory advisors and whether they can recover costs. There may therefore be benefit in first trialling the approach before rolling it out nationally.

iii. Increase the efficiency of the licence process

The main features of this option are:

- a. Smaller dredging operations to be fast tracked;
- b. Longer licences for ongoing maintenance dredging activities.

4.15 This option is aimed at reducing the burden on operators where a marine licence is required. The cost of a marine licence is determined principally by the time required for the MMO to assess the application and if necessary monitor compliance. Where possible the MMO intend to fast track applications for small scale/low risk dredging projects carrying out all necessary assessments in-house. Such applications would need to have a sample analysis history or evidence would need to be provided to show that the material was free from contamination.

4.16 In some other cases licences may need to include conditions to protect the marine environment and other uses of the sea. Again a sample analysis history or past evidence may be required and agreed by the MMO's primary advisors to be sufficient to protect the marine environment and allow the licence to be issued using the fast track licensing process. Such conditions would only be included in licences if there was a clearly defined need.

4.17 Unless specific risks are identified, the intention is to issue longer maintenance dredging licences where practicable (e.g. up to 5 years) in order to reduce transaction costs on renewal. Such licences would cover both the dredging and disposal aspects of a project. The MMO will have more detailed discussions with stakeholders on how this would work in practice. Under option ii, where a Maintenance Dredging Protocol is in existence and a licence is required for a maintenance dredging and sea disposal project, the MMO may consider a 10 year licence which had specific break points to check that there had been no change in the environmental status of the dredging area.

4.18 As part of monitoring compliance the MMO may consider it necessary to require samples to be taken, analysed and reported to them during the lifetime of longer term licences. Any maintenance dredging activity which involves sea disposal will need a licence.

iv. Harbour Authorities carry out the function of issuing marine licences on behalf of the MMO where the maintenance dredging activity is within the Harbour Authority area.

The main features of this option are:

- a. Dredging activities remain licensable (unless exempted under one of the other options);
- b. MMO delegates responsibility for licensing under the MCAA to a Harbour Authority; criteria for such a delegation would need to consider:
 - i. whether the licensing decision-making process is separate from any commercial/financial transactions;
 - ii. transparency of application processing and decision-making;
 - iii. consultation (including public advertisement) and how stakeholder input is managed;
 - iv. appeals;
 - v. appropriate level of internal expertise or contractual support from suitable external body;
- c. The Harbour Authority would be able to coordinate the assessment of a licence application with its own approvals process;
- d. The delegated power would be subject to review by the MMO.

4.19 This option involves delegation of authority by the MMO to Harbour Authorities. A statutory power exists to delegate authority under section 15 of the MCAA although there are potentially complex issues with charging and variation of licences. Such delegation would be done only with the agreement of the “eligible body” (i.e. the Harbour Authority). It could apply to certain specified cases, e.g. some or all classes of maintenance dredging; consenting of certain other small-scale licensable activities could be considered.

4.20 Since under this option dredging would still be subjected to an MCAA licence, the principal benefit would be that the Harbour Authority could combine its own consenting process with that required under the MCAA. There could therefore be a considerable efficiency gain for both applicant and regulator if it led to a reduction in duplication.

4.21 It is not anticipated, however, that this option would be of interest to many Harbour Authorities given the resources that would be required to run a licensing process compliant with the requirements of the MCAA. There may be other important factors to consider such as competition (where one Harbour Authority could be regulating activities carried out by a competing operator or by itself) or consistency of decision-making. However, we would be interested in the views of Harbour Authorities and operators as to whether this option should be pursued and/or trialled. It is possible that the operating costs for Harbour Authorities in relation to this option could be higher than for the MMO since there would be a need for the Harbour Authority to set up a licensing system of their own.

4.22 Please consider the following questions below:

- Would Harbour Authorities want to have the authority to licence activities on behalf of the MMO?
- Where a Harbour Authority is interested in pursuing/trialling this option, how would they ensure that the functions of licensing and associated activities remain compatible with the purpose for which the Harbour Authority was established?

Proposals for other exemptions

i. Small-scale, low risk activities within Harbour Authority areas

4.23 Article 25 of the current Exemptions Order exempts a number of deposits (or removals) that are designed to provide moorings or aid navigation, provided that they are done by or have the consent of the Harbour or Lighthouse Authority. These activities include pile moorings, swinging moorings, trot moorings and replacement piles and small scale structures.

4.24 There may, however, be other small-scale activities that might be exempted from the requirement for a marine licence where the principal potential risk would be navigational and where it should be sufficient to rely on a Harbour Authority/Lighthouse Authority consent. For example, whilst the scope of “pontoons” would normally include some significant structures (for example using piling to fix the main supports) it may be possible to define a category of “temporary” pontoons that could be exempted. Other structures such as masts, scaffolding and simple moorings that are included in the MMO’s tier 1 charging regime might also be exempted, where the principal issue is navigation/amenity and provided that they have a local consent. We are aware that some of these structures may have an impact through scour or habitat loss even when not permanent and any new exemption may need to include appropriate conditions to reflect this.

- Do consultees have any views as to an appropriate definition of “temporary”?

ii. Sediment sampling

4.25 Unlike under the previous FEPA licensing regime, the use of a vehicle, vessel, aircraft, marine structure or floating container to remove any substance or object from the seabed is a licensable activity. No minimum or maximum volumes are specified in the MCAA and therefore all such removals, regardless of scale are potentially licensable. Whilst the current Exemptions Order has exempted a number of removals that were considered to pose minimal risk, the first year's operation of the system has identified a number of other low risk removal activities that pose a minimal or no risk to the environment, human health or other users. The most significant of these is the taking of small sediment samples, with around seventy marine licences being issued in 2011/12.

4.26 We propose to exempt most sediment sampling from the requirement for a marine licence as has already been done under Scottish legislation¹⁷. The exemption would apply to removals which are less than one cubic metre. As with several existing exemptions a condition of the exemption would be that the activity is not likely to have a significant effect on a protected European site, Ramsar site or MCZ. The definition of sediment samples could cover intertidal cores and sub-tidal sediment coring from a vessel as well as grab sampling. Before an activity is carried out, operators would need to notify the relevant licensing authority (normally the MMO in England) of the locations and numbers of works. The activity may require Natural England consent under the Wildlife and Countryside Act 1981 if inside Sites of Special Scientific Interest.

iii. Temporary marker buoys for recreational activities

4.27 Marker buoys can be used for a range of purposes where users need to be able to easily identify the location of important marine features. The current Exemptions Order exempts such marker buoys where they are used to indicate European marine sites or MCZs (article 26) or diver trails in restricted areas (article 31).

4.28 Temporary marker buoys are also sometimes used for a range of recreational activities such as sailing races, swimming and diving. As with the existing exemptions the use of such marker buoys is considered to be very low risk to navigation and to the environment.

4.29 We therefore propose to exempt the deposit and removal of markers buoys and their associated weights for recreational activities where the marker is temporary and the activity does not obstruct or cause a danger to navigation. A temporary marker buoy could be defined as "not permanently fixed to the seabed" and deposited for less than 3 months. In order to satisfy the navigational safety condition the operator would need to notify the relevant Harbour Authority or otherwise the licensing authority.

- We would welcome suggestions on an appropriate definition for "temporary".

¹⁷ Marine Licensing (Exempted Activities) (Scottish Inshore and Offshore Regions) Amendment Order 2012

iv. Shellfish propagation and cultivation

4.30 Under article 13 (1)(a) of the current Exemptions Order, the deposit of shellfish propagation and cultivation equipment such as trestles, rafts, cages, poles, ropes and lines is exempt from requiring a marine licence unless the deposit is for the purpose of disposal, creating, altering or maintaining an artificial reef or is likely to cause an obstruction or danger to navigation. The location of such equipment is generally indicated by a marker buoy and there has been some uncertainty about whether such markers are covered by this exemption (as an integral part of the equipment) or would need to be licensed in their own right.

4.31 We propose to remove this uncertainty by including markers in the list of exempted shellfish propagation equipment. A condition of the exemption would therefore be that the marker does not cause obstruction or danger to navigation. As with other exemptions involving potential risks to navigation an additional condition would be that the operator gives advance notification to the Harbour Authority or otherwise the licensing authority (normally the MMO) where the deposit refers to marker buoys and their associated weights.

v. Removal of objects accidentally deposited on the seabed

4.32 During the normal course of many marine activities, it is not unusual for equipment to be lost overboard from a vessel or a marine structure such as a fish farm or offshore platform. Currently, the use of a vehicle or vessel to retrieve such items would constitute a licensable activity even though the risks to the environment, human health and safety would normally be very small.

4.33 We intend to follow a similar approach to that taken by the Scottish Government in exempting the recovery of objects which have been accidentally deposited on the seabed. The Scottish exemption includes a number of conditions which we would expect to replicate; these include advance notification (to the licensing authority) and avoiding risks to navigation and impacts on protected sites. The removal activity would need to take place within a year of the item being lost.

vi. Scientific Instruments and the use of vehicles to remove litter or seaweed from beaches

4.34 The current Exemptions Order includes exemptions for the deposit (and removal) of scientific instruments etc (article 17) and the use of vehicles to remove litter or seaweed from beaches (article 21). Both exemptions include a condition that the activity is not one that would be likely to have an adverse effect on certain protected sites. The scientific instruments exemption also includes a condition that the activity should not cause obstruction or danger to navigation. However, in the absence of any notification requirement, it is difficult for the MMO to satisfy itself that such conditions are met.

4.35 We propose therefore to include in both cases a requirement for the operator to notify the relevant licensing authority in advance of the deposit or removal activity. This

would help to ensure that licence applications are submitted where there are significant risks to protected sites or risks to navigation.

vii. Marine mammal, shark and turtle removal and disposal

4.36 The removal of large marine animals, such as cetaceans, sharks and turtles, that have become stranded on the sea shore will generally require the use of lifting machinery and as such is currently likely to require a marine licence. Given the public health issues, the priority should be to ensure that the removal and disposal is done as quickly and efficiently as possible.

4.37 We propose to exempt this activity where it is carried out by or on behalf of a Local Authority (for example by extending the scope of the current exemption for removal of seaweed and beach litter). Rather than seek a marine licence, Local Authorities would be requested to notify the licensing authority in advance of removing and disposing of a carcass so that the MMO could be satisfied that there are no significant impacts on protected sites and can advise on disposal, and that the Local Authority is aware of other relevant legal obligations.

viii. Deposit of marine chemical and marine oil treatment substances

4.38 Article 15 of the current Order exempts the use of oil spill treatment products from the need for a marine licence. This is a reflection of the urgency of marine pollution incidents rather than the relative risk from dispersant use, since such dispersants can cause serious environmental damage in their own right.

4.39 In the place of marine licensing the MMO “approve” a list of treatment substances and “approve” their deployment where it is to take place in waters of 20 metres depth or less, within one nautical mile of any such area, or wherever the use is below the surface of the sea. This is to allow regulatory control of the use of products, where the potential impact of product use is greatest (i.e. in shallow waters) or least well understood (subsea).

4.40 For use outside of the areas described above, most responders have already made commitments under the Maritime and Coastguard Agency National Contingency Plan, and the Oil Pollution Emergency Plans guidance to contact the licensing authority for informal advice. However, there is a need to ensure that unidentified contracted responders seek advice and hence approval from the relevant licensing authority as there are concerns that the current process may not afford adequate protection to marine protected sites.

4.41 We propose that approval should be a condition for the use of any oil spill treatment products anywhere in English waters, both simplifying the regime for planners, giving regulators and responders confidence that the products meet particular standards and ensuring compliance with the UK’s obligations to protect marine protected areas.

Guidance on whether activities are licensable

4.42 In some cases the principal issue has been whether a certain activity in the marine environment is licensable or not. Section 66 of the MCAA lists those activities which are licensable (see Annex A). Ultimately the interpretation of the Act could be determined in the courts, but where practicable, the MMO provides advice and [guidance](#) to help marine users decide whether they need to apply for a licence or not. Examples of activities where advice and guidance will need to be provided include: the washing of slipways, use of vessels (e.g. hovercraft) in the taking samples by hand, removal of items by divers, removal of seaweed, and the meaning of ‘maintenance activities’ (used for example in relation to maintaining any harbour works).

5. Impact on business, operators, individuals

5.1 We envisage that the proposals in this consultation paper would not impact negatively on business, operators or individuals. The intention is to reduce the regulatory burden while maintaining a high level of protection for the environment, human health and other marine users.

5.2 We have provided an estimate of costs and benefits at Annex B. An Impact Assessment will be prepared for the final stage process after the consultation has ended and will be subject to the necessary Regulatory Policy Committee and Reducing Regulation Committee Clearances.

Annex A

Licensable activities as listed under Section 66(1) of the Marine and Coastal Access Act 2009

A marine licence will be required if the following activity takes place:

1. To deposit any substance or object within the UK marine licensing area, either in the sea or on or under the sea bed, from:
 - (a) any vehicle, vessels, aircraft or marine structure;
 - (b) any container floating in the sea; or
 - (c) any structure on land constructed or adapted wholly or mainly for the purpose of depositing solids in the sea.
2. To deposit any substance or object anywhere in the sea or on or under the sea bed from:
 - (a) a British vessel, British aircraft or British marine structure, or
 - (b) a container floating in the sea, if the deposit is controlled from a British vessel, British aircraft or British marine structure.
3. To deposit any substance or object anywhere in the sea or on or under the sea bed from a vehicle, vessel, aircraft, marine structure or floating container which was loaded with the substance or object:
 - (a) in any part of the UK except Scotland, or
 - (b) in any UK marine licensing area.
4. To scuttle any vessel or floating container in the UK marine licensing area.
5. To scuttle any vessel or floating container anywhere at sea, if the scuttling is controlled from a British vessel, British aircraft or British marine structure.
6. To scuttle any vessel or floating container anywhere at sea, if the vessel or container has been towed or propelled, for the purpose of that scuttling:
 - (a) from any part of the UK except Scotland, or
 - (b) from the UK marine licensing area, unless the towing or propelling began outside that area.

7. To construct, alter or improve any works within the UK marine licensing area either:
 - (a) in or over the sea; or
 - (b) on or under the sea bed.
8. To use a vehicle, vessel, aircraft, marine structure or floating container to remove any substance or object from the sea bed within the UK marine licensing area.
9. To carry out any form of dredging within the UK marine licensing area (whether or not involving the removal of any material from the sea or sea bed).
10. To deposit or use any explosive substance or article within the UK marine licensing area either in the sea or on or under the sea bed.
11. To incinerate any substance or object on any vehicle, vessel, marine structure or floating container in the UK marine licensing area.
12. To incinerate any substance or object anywhere at sea on:
 - (a) a British vessel or British marine structure, or
 - (b) a container floating in the sea, if the incineration is controlled from a British vessel, British aircraft or British marine structure.
13. To load a vehicle, vessel, aircraft, marine structure or floating container in any part of the UK except Scotland, or in the UK marine licensing area, with any substance or object for incineration anywhere at sea.

Annex B

Summary of costs and benefits

(1) Navigational dredging

This annex provides a brief summary of the costs and benefits of reducing the regulatory burden on navigational dredging in England whilst maintaining the same high level of environmental protection and preventing interference with other legitimate uses of the sea. These costs and benefits have been assessed primarily for the affected industry¹⁸ the MMO and Cefas, although impacts on other stakeholders, e.g. those parties consulted on applications have also been accounted for. The summary is derived from an assessment made for Defra by Cefas and Eunomia Research and Consulting¹⁹ who formed part of the Project Team referred to in Appendix 2.

All the options presented below are intended to reduce the overall regulatory burden whilst maintaining the same environmental outcome. This would be achieved by exempting activities with “de minimis” effects or where a more strategic level assessment of larger dredging projects would demonstrate no adverse effects, or through a range of efficiency measures. The environmental cost/benefit of these options is therefore estimated to be zero.

Option 0 assumes business as usual, i.e. all dredging is regulated unless already exempted under the MCAA. The four new policy options are set out below:

- i. Exempt minor dredging activities from the requirement for a marine licence, subject to a “carve-out” to ensure EU compliance.
- ii. Exempt dredging activities if they are included in a Maintenance Dredging Protocol (MDP) approved by the licensing authority, subject to “carve-out” to ensure compliance with other EU legislation.
- iii. Increase the efficiency of the licence process by allowing smaller dredging operations to go through a fast tracking process. Unless specific risks are identified, the intention is to issue longer licences for ongoing maintenance dredging activities.
- iv. Harbour Authorities carry out the function of issuing marine licences within Harbour Authority areas on behalf of the MMO.

Further detail on these options is contained in the main part of the consultation paper.

¹⁸ Within this CBA, the term ‘industry’ is used to include all sectors who are required to obtain a licence. It therefore includes some recreational and voluntary groups.

¹⁹ This document will be available from the Defra Website shortly.

Methodology

The costs and benefits described in this assessment have been modelled using a bespoke Excel spreadsheet developed by Eunomia Research and Consulting. The model considers a variety of impacts associated with licensing dredging activities including administrative impacts relating to applying for and determining marine licences. These impacts have been assessed using the Standard Cost Model (SCM) methodology. Impacts are calculated using the formula:

$$\text{Activity Impact} = \text{Price} \times \text{Quantity}$$

$$\text{Price} = \text{Wage rate} \times \text{Time}$$

Wage rate: costs associated with person undertaking activity

Time = time undertaken for activity

$$\text{Quantity} = \text{Population} \times \text{Frequency}$$

Population = number of people doing activity

Frequency = number of times activity undertaken

The costs and benefits modelled are measured over a 10 year period starting in 2013/14 and are calculated as the Net Present Values (NPVs) for the period²⁰. A discount rate of 3.5% has been used to calculate the NPV in line with the HM Treasury Green Book.²¹ Costs and benefits are expressed in 2012 real terms prices.

This assessment has focussed on the direct impacts of implementing the licensing system. Indirect impacts, although considered, have not been identified. The costs and benefits associated with the licensing regime have been separately calculated for the following key actors involved in the licensing process:

- Industry²²;
- the Regulator (mainly the MMO, but also HAs in option iv); and
- Consultees and Scientific Advisors.

The cost (or savings) to industry of paying for marine licences are accounted for via the estimates of costs to the MMO of administering the licensing process. In reality, the cost savings to the MMO of administering the licensing process are mostly recovered through fees and charges imposed on industry. So ultimately most of these savings will be accrued by industry in addition to the other industry savings described below.

²⁰ NPVs show the value of a series of costs and benefits over a fixed period of time in 'today's terms' reflecting the time value of money

²¹ http://www.hm-treasury.gov.uk/data_greenbook_index.htm

²² The term 'industry' refers to applicants for Marine Licences. Whilst it is accepted that some voluntary groups will be required to obtain Marine Licences for the first time, for the purpose of this assessment applications are made on a commercial basis.

Methodology for calculating numbers of licences

The estimated numbers for dredging activities in England contained in table 1 are based on detailed discussions with industry experts and over 200 responses to an informal survey completed by members of the British Marine Federation and Royal Yachting Association. Table 2 summarises key assumptions then made in modelling the effects of each of the four new policy options. However, these numbers remain highly uncertain and we aim to improve them further following the consultation exercise. It is important to note that where the tables in this document refer to ‘disposal at sea’, it is the dredging elements of these operations that are licensable and not the disposal operations themselves which already require a licence.

For the purposes of this analysis dredging activity has been divided into three categories based on relative impact/risk with the lowest impact/risk being Tier 1²³. These tiers do not fully correlate to the charging structure that is used by the MMO. Please see appendix (i) which provides information on which these tables are based.

Table 1: estimated numbers of dredging activities (Option 0)

Location / Operator	Type of Activity	Total Estimated Number of Activities	Marine Licence Outcome			
			Exempt	Tier 1 Licence Required	Tier 2 Licence Required	Tier 3 Licence Required
Harbour Authorities within Harbour Areas	WID/ Dispersive	75	75 (100%) (Section 75 Exemption applied)	0 (0%)	0 (0%)	0 (0%)
	Disposal at Sea	75	75 (100%) (Section 75 Exemption applied)	0 (0%)	0 (0%)	0 (0%)
	Other ¹	100	100 (100%) (Section 75 Exemption applied)	0 (0%)	0 (0%)	0 (0%)
3rd Party Dredging in a Harbour	WID/ Dispersive	350	0 (0%)	70 (20%)	70 (20%)	210 (60%)
	Disposal at Sea	450	0 (0%)	143 (32%)	143 (32%)	163 (36%)

²³ For example tier 1 activities have been assumed to meet the following criteria: Small scale volume (i.e. <3,000 m³ per campaign, and < 10,000m³ per annum); small scale geographic area (i.e. less than 1% of the water body size); not located within or adjacent to a designated conservation site (SPA, SAC, SSSI and MCZ) or MDP in place or HRA been carried out; and no known contamination issues or reason to suspect contaminants present.

Authority Area	Other	150	0 (0%)	38 (25%)	75 (50%)	38 (25%)
Operators outside of Harbour Authority Areas	WID/ Dispersive	10	0 (0%)	1 (10%)	8 (80%)	1 (10%)
	Disposal at Sea	150	0 (0%)	8 (5%)	83 (55%)	60 (40%)
	Other	200	0 (0%)	90 (45%)	100 (50%)	10 (5%)
TOTAL		1560	250	350	479	482

Notes

- 1) 'Other' refers to alternative dredging activities such as such as plough dredging or dredging with subsequent disposal to land
- 2) The percentages included within the table relate to the distribution of licence types (and exemptions) within each type of dredging activity in each location.
- 3) Numbers may not add due to rounding

Table 2: General and specific assumptions for all Policy Options to inform the number of licenses exempted

Options	Assumptions
General Assumptions	An average length of 3 years for Tier 1 and 2 licences and of 2 years for Tier 3 licences; 100% compliance rate with the requirement to obtain and adhere to the conditions of a licence; 80% of maintenance dredging activities apply for a licence in 2013, the remaining 20% apply for a licence in 2014; 25% of tier 2 and 3 dredging applications are for capital projects.
Option i -	70% of Tier 1 activities exempt as "de minimis"
Option ii -	10 Harbour Authorities have an MDP in place covering 30% of maintenance dredging activities; 30% of Tier 2 and Tier 3 maintenance activities exempted.
Option iii -	70% of Tier 1 activities subject to fast tracking; for disposal at sea dredging activities in an area covered by an approved MDP (assumed to be 30% of the Tier 2 and Tier 3 maintenance activities), applicants would be able to obtain a 10 year licence with 3 yearly monitoring points.
Option iv -	5 Harbour Authorities assumed to be responsible for issuing marine licences rather than MMO.

Costs associated with the licensing system

There are three broad stages to obtaining a licence, each of which have been assessed as part of this analysis:

- i. Pre-application (which includes undertaking associated assessments);
- ii. Application Preparation and Submission; and
- iii. Consideration and Determination of Applications (which includes consultation by the MMO).

Table 3 summarises the assumptions made for the time taken by industry, MMO and Cefas at each of these stages. Table 4 does the same for organisations which could be consulted on tier 2 or 3 applications. The costs are calculated using an average wage rate for each group (Appendix (ii)). For tiers 2 and 3 industry may additionally need to commission various additional assessments in particular for first time applications, see table 6.

For option iv, the regulator for the licensing system will be both Harbour Authorities and MMO. As it is assumed that the Harbour Authority day rates are higher cost of the activities will also be higher.

Table 3: Average time taken for pre-application, application, and monitoring by industry, MMO⁽¹⁾ and Cefas

	Pre-application			Application/determination			Monitoring		
	Industry	MMO	Cefas	Industry ⁽²⁾	MMO ⁽³⁾	Cefas	Industry	MMO	Cefas
Tier 1	0.5 days	2 hrs	N/A	0.5-1 day	3-3.5 hrs	N/A	N/A	N/A	N/A
Tier 2	1 day	7.3 days	8 days	1-2 days	13.5 hrs	22 hrs	3.5 hrs	3.5 hrs	1 hr
Tier 3	2 days	7.3 days	8 days	1-2 days	13.5 hrs	30 hrs	7 hrs	7 hrs	3 hrs

Similar assumptions are made for Harbour Authorities under option iv
Lower figure applies if there is a pre-existing licence
Lower figure applies with fast tracking option iii

Table 5: Average time taken for consultees

Consultee	Tier 2 Licence	Tier 3 Licence
	Average Time	Average Time
Natural England	5 hours	5 days
Environment Agency	5 hours	5 days
Port/Harbour Authorities	3 hours	2 days
MMO	3 hours	2 days
The Maritime and Coastguard Agency	3 hours	1 day
Inshore Fisheries and Conservation Authorities	3 hours	5 days
Crown Estate	3 hours	3 hours
English Heritage	3 hours	2 days

Table 6: Costs of environmental assessments

Dredging activity	Desk based env assessment ¹	Survey based env assessment	Hydro-dynamic assessment ²	Sediment dispersion study	Bathymetric survey
Tier 2	£2,500	N/A	£0-1,500	£7,500 ⁴	£3,500
Tier 3	N/A	£25,000 ³	£6,000-13,500	£7,500 ⁴	£5,000

Notes:

- 1) Environmental Assessments will only be required for the first application of an activity
- 2) Hydrodynamic assessment will only be required for Capital dredging activities; higher figure for conventional dredging techniques
- 3) Costs of environmental assessments can vary considerably
- 4) A Sediment Dispersion study will only be required for first time WID/Dispersive activities **or** if the activity is a high overflow activity where conventional dredging activities are planned

Cost savings for navigational dredging

Following the methodology described above and taking the assumptions on likely numbers and costs of licences under each of the policy options, we arrive at the following cost savings mentioned in the table below²⁴.

Table 7: Costs savings to Government and applicants

	Total PV of cost savings (2011/12 prices)
Option 1	£663,000
Option 2	£20,561,000
Option 3	£44,999,000
Option 4	-£537,000
Combined option	£57,349,000

The biggest factor in reducing costs would be from having longer (e.g. 5 year and 10 year) licences as illustrated in option 3. Option 2 would also deliver significant savings as a result of a reduction in the requirement for separate assessments for individual maintenance dredging activities. Whilst the savings from option 1 are relatively small (since it only affects a proportion of tier 1 activities) it would bring important benefits to smaller operators/micro businesses such as marinas. Option 4 could result in a small overall increase in costs from marine licensing since it is assumed that the administrative costs by Harbour Authorities would be greater than for the MMO. But there could be other efficiency benefits – not quantified here – if the administration of marine licensing were combined with local permitting.

The cheapest overall policy option is expected to be the combined option which models the effects of the four options together (assuming average length of the licence to be 5 years) and which is some £57m cheaper when compared to the baseline. The combined option is expected to result in the lowest cost for each group of actors – i.e. Industry, the MMO, Port/Harbour Authorities and Consultees. This is largely because this option leads to the lowest number of licences being required when compared to the other options.

²⁴ See the Eunomia assessment for further background; estimates of cost savings do not include cost reductions from longer licences for sea disposal (option 3 and combined option); these additional savings will be calculated during consultation

(2) Other exemptions

As explained in Section 4 of this consultation paper, the purpose is to capture further low risk and small scale activities that currently require a marine licence but in effect could be exempt. The proposed additional exemptions are:

- Small-scale, low risk activities within Harbour Authority areas
- Sediment sampling
- Temporary marker buoys
- Marker buoys used in shellfish management
- Removal of objects accidentally deposited on the seabed
- Removal of dead animals

Because these activities are considered to pose little if any risk to the environment, human health and other marine users, the costs of the proposals are estimated to be zero. The benefits take the form of cost savings to Government and business as a result of not having to apply for and process marine licences.

Methodology

Cost savings to industry and government (MMO and Cefas) are estimated using the following methodology:

Cost savings from exemption per year = (Estimated number of licences for a given activity) × (The number of hours taken to apply for/process the licence) × (The hourly Government/business rate)

Where:

- The numbers of licences were taken, where available, from the MMO licensing system database for the period April 2011 to March 2012 (table 8 below).
- The application and processing times are based on advice from the MMO. All licences would be Tier 1 licences within the MMO's charging system and would not have involved any pre-application stages (table 8 below for details).
- Various hourly rates were used for MMO, Cefas and applicants (industry) to estimate cost savings. These are listed below:
 - A rate of £80/hour was used for the MMO.
 - A rate of £86/hour was used for Cefas services. This is the rate that Cefas "notionally" charge the MMO and which is passed on to customers.
 - A rate of £44/hour was used for the preparation of licence applications by applicants. This is derived from the £43/hour rate used in the Marine licensing impact assessment (2010 prices) and converted to 201/12 prices using the GDP deflator.

Table 8: number of marine licences required and the time taken by MMO, Cefas and applicants:

Marine Licence Type (for exemption)	Actual completed Applications April 2011 – March 2012	Average MMO case time (hours)	Average Cefas case time (hours)	Average time for applicant (hours)
Small-scale, low risk activities within Harbour Authority areas*	N/A	2.50*	3.00*	2.00*
Sediment sampling**	64	5.50	3.50	2.00
Temporary marker buoys	4	2.50	3.00	2.00
Marker buoys used in shellfish management*	N/A***	2.50*	3.00*	2.00*
Removal of objects accidentally deposited on the seabed*	N/A***	2.50*	3.00*	2.00*
Removal of dead animals	2	2.50	0****	2.00
Total	70			

* These values are estimated, based on experience in processing other applications;

** The number of grab samples included in the table are a combination of those processed as tier 1a (42) and those processed as tier 1b (22)

*** Whilst it is possible to estimate the likely number of hours to apply for/process such licences, no marine licences were issued. Such activities may be taking place without the knowledge of the licensing authority. For further information please refer to the assumptions below.

****There is no Cefas involvement as no environmental assessment takes place for removal of dead animals

Assumptions:

The analysis looks at cost savings over a 10 year period from exempting these activities from requiring a licence. The following assumptions have been made:

- For sediment sampling, the analysis assumes about 10% of sediment sampling licences run for five years; the remainder would last one year²⁵. For the 5 year licences it has been assumed that two-thirds would be renewed every 5 years.

²⁵ The 5yr sediment sampling licences are typically linked to research activities or baseline monitoring for larger projects.

- For temporary marker buoys (for recreational activities) and removal of dead animals it has been assumed that the number of annual applications will be 4 and 2 respectively (based on 2011/12 data – see table 8). The number of such activities would normally remain low unless a major outbreak of disease in the sea or oil/chemical pollution incident resulted in high mortality of marine animals.
- In the case of small-scale activities within Harbour Authorities it has not been possible to extract the necessary location information from the MMO 2011/12 database. It is very likely however that a number of applications for such activities have been processed by the MMO. In the cases of shellfish buoys and recovered items no applications were received during 2011/12. There has been some uncertainty over whether the placing of shellfish buoys is a licensable activity and the aim of the exemption is to remove any doubt. It is quite likely that vessels etc have been used to recover/remove lost items from the seabed, but operators may not have been aware of the need currently to apply for a licence. In all these cases we have not estimated potential numbers since there is no reasonable basis for making assumptions.

Table 9: Average annual number of applications for a 10 year period

	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	Total
1 Year	58	58	58	58	58	58	58	58	58	58	580
5 Year New	6	6	6	6	6	6	6	6	6	6	60
5 Year Renewal					4	4	4	4	7	7	30
Sediment sampling sub-total	64	64	64	64	68	68	68	68	71	71	670
Temporary marker buoys	4	4	4	4	4	4	4	4	4	4	40
Removal of dead animals	2	2	2	2	2	2	2	2	2	2	20
TOTAL	70	70	70	70	74	74	74	74	75	75	730

Based on the above assumptions Table 9 summarises the number of licences that would have been required over a ten year period. It is likely to under-estimate cost savings, given that we do not have data for three of the proposed exemptions (bullet 3 above). The assumptions will be revisited if further information is forthcoming during the consultation

Cost savings for other exemptions:

Table 10 summarises the estimated annual cost savings for 2012/13 to Government and business for those proposed exemptions where all the data are available. The analysis uses the Treasury Green Book discount rate of 3.5% to arrive at net present value of cost savings over 10 years.

For the MMO the total cost is estimated to be £263,160 (10 year NPV at discount rate 3.5%), Cefas £181,843 (10 year NPV) and Applicants £55,111 (10 year NPV).

Table 10: Cost savings to Government and Applicants

Sectors	Total PV of cost savings (2012/13 prices)
MMO	£263,160
Cefas	£181,843
Applicants	£55,111
Total 10yr NPV @ 3.5%	£505,731

(3) Other proposed changes

The other activities mentioned in the consultation paper - deposit (and removal) of scientific instruments, the use of vehicles to remove litter and the deposit of marine chemical and marine oil treatment substances are already exempt from the requirement for a marine licence. Whilst the scope of these exemptions will remain, the paper proposes to amend the conditions attached to those exemptions. In the first two cases the operators will need to notify the MMO before proceeding. The MMO will then be able to check whether the activity is within or close to a protected site and consider where it is likely to have a significant effect. In the third case, operators will need to seek the MMO's approval for the use of oil spill treatment products anywhere in English waters. This is already a requirement in shallow waters and sub-sea and has been established practice in

other waters. However, there is no licence charge, and from an operator's point of view the MMO's approval provides an added assurance that the use of dispersants is considered to be an appropriate environmental response. None of these small changes is expected to impose an additional cost on operators, but they will help to improve the effectiveness of the marine licence exemptions.

(4) Conclusions

Because these activities are considered to pose little, if any, risk to the environment, human health and other marine users, the costs of the proposals are estimated to be zero. The benefits take the form of cost savings to Government and business as a result of not having to apply for and process marine licences. The potential savings from the options to reduce the burden on navigational dredging could amount to around £57m (over 10 years) – but there are significant uncertainties to these figures and they will need to be further improved for the impact assessment. Potential savings from the other exemptions are modest at around £0.5m (over 10 years) but they should help to reduce the regulatory burden on a wide range of marine users.

Appendix 1: Assumptions used in the estimate of navigational dredging activity in England

	<i>Type of Dredging Activity</i>	<i>Estimated Number of Activities</i>	<i>Assumptions used to estimate number of activities</i>
Harbour Authorities within Harbour Areas	<i>Total number of activities</i>	250	<ul style="list-style-type: none"> • Assumed conservative estimate of at least 250 Harbour Authorities in England • House of Commons report into the ports industry (2007) estimated more than 650 ports in the UK with statutory harbour powers. Many of these in Scotland and Wales. • Would need to carry out detailed review to refine the number (it may increase).
	<i>WID/Dispersive</i>	75	<ul style="list-style-type: none"> • Assumed that 30% of harbour authorities carry out some form of dispersive dredging. • May be in addition to dredging using other techniques.
	<i>Disposal at Sea</i>	75	<ul style="list-style-type: none"> • Assumed that 30% of harbour authorities hold disposal at sea licences • Figure can be checked and refined through analysis of licensing database
	<i>Other¹</i>	100	<ul style="list-style-type: none"> • This makes provision for the following activities: plough dredging, disposal to silt lagoons, disposal to landfill, beach recharge, habitat creation, use in construction projects etc
3rd Party Dredging	<i>Total number of activities</i>	950	<ul style="list-style-type: none"> • This figure includes the following: • Terminals, marinas, berths, jetties, sailing clubs, boat yards and moorings in harbour areas where dredging is currently licensed by the harbour authority or carried out without

in a Harbour Authority Area			<p>a licence (small scale and slips under the radar)</p> <ul style="list-style-type: none"> • Many of the statutory harbour authorities licence dredging of third parties within their jurisdiction, numbers varying between <10 licences to more than 50 licences. • Assumed that 50 of the 250 harbour authorities licensed an average of 19 activities each to arrive at 950. • Figures for recreational dredging supported by results of an informal survey of Royal Yachting Association members (200 activities) • This figure can be refined by a detailed review of harbour authority licensing powers and activities.
	WID/Dispersive	350	<ul style="list-style-type: none"> • Discussions with one company identified in the order of 250 sites where WID is applied in harbour authority areas. • Several other operators are also offering dispersive dredging techniques thus a further 100 activities were included.
	Disposal at Sea	450	<ul style="list-style-type: none"> • The majority of dredged material is disposed of to sea however in some places there are aggregate licences covering large areas.
	Other	150	<ul style="list-style-type: none"> • This make provision for the following activities: plough dredging, disposal on land nearby, disposal to silt lagoons, disposal to landfill, beach recharge, habitat creation, use in construction projects etc
Operators outside of Harbour Authority Areas	Total number of activities	360	<ul style="list-style-type: none"> • This figure includes commercial operators located in coastal/estuarine areas beyond the harbour authority jurisdiction. It also includes coastal sailing clubs, marinas and small scale activities.
	WID/Dispersive	10	<ul style="list-style-type: none"> • Limited use as most activities are likely to be relatively small scale and unable to warrant mobilisation costs.
	Disposal at Sea	150	<ul style="list-style-type: none"> • This figure is based on the approximate number of Coastal Protection Act licences issued.
	Other	200	<ul style="list-style-type: none"> • This make provision for the following activities: plough dredging, disposal on land nearby, disposal to silt lagoons, disposal to landfill, beach recharge, habitat creation, use in construction projects etc • Likely to be the most small scale activities where backhoes and similar plant are used.
TOTAL		1560	
<p><i>Notes: 'Other' refers to alternative dredging activities such as plough dredging or dredging with subsequent disposal to land.</i></p>			

Appendix 2: Average wage rates

Actor	Average Cost Per Hour	Source
MMO	£80	MMO licensing Guidance 12: Fees and Charges - March 2011, http://marinemangement.org.uk/licensing/documents/guidance/12.pdf
Industry	£44	The Marine Licensing (Licence Application Appeals) Regulations 2011 Impact Assessment, http://www.legislation.gov.uk/ukdsi/2011/9780111506660/memorandum/contents . This has been increased due to inflation from £43.
CEFAS	£86	MMO licensing Guidance 12: Fees and Charges – March 2011, http://marinemangement.org.uk/licensing/documents/guidance/12.pdf
Natural England	£63	Project Team assumed day rate
Environment Agency	£125	Environmental Permitting Charging Scheme & Advice 2011-12, http://www.environment-agency.gov.uk/static/documents/Business/EP_scheme_and_guidance_2011-12.pdf
Port/Harbour Authorities	£100	Project Team assumed day rate
The Maritime and Coastguard Agency	£63	Project Team assumed day rate
Inshore Fisheries and Conservation Authorities	£63	Project Team assumed day rate
Crown Estate	£63	Project Team assumed day rate
English Heritage	£63	Project Team assumed day rate