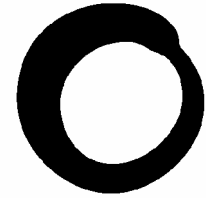




Marine Information Network
www.marinet.org.uk



**Friends of
the Earth**

Allington House
Allington
Chippenham
Wiltshire SN14 6LN
Tel. 01249 653972

30th July 2006.

For the attention of: Mr. Matthew Louis, Dept. for Communities and Local Government,
Zone 4/B1, Eland House, Bressenden Place, London SW1E 5DU.

Dear Mr Louis, Consultation on draft Marine Minerals Dredging Regulations.

Thank you for your invitation to comment on the draft Environmental Impact Assessment and Natural Habitats (Extraction of Minerals by Marine Dredging) (England and Northern Ireland) Regulations 2006; and, the draft guidance (Marine Minerals Guidance Note2: The Control of Marine Dredging from the English Seabed). Our comments are outlined below.

Consultation Bodies.

We believe that this update of the regulations affords the government an opportunity to revise the basis on which interested parties are notified of marine dredging applications.

At the present time an organisation like MARINET, which has a clear and registered interest in these matters, cannot be placed on the list of organisations which are automatically notified of marine dredging applications. Instead, MARINET has to rely on its members reading advertisements in the public press – always an uncertain procedure. We regard this as most unsatisfactory.

Accordingly, **we request** that the regulations are amended to enable the government to place (and remove) an organisation on the list of organisations so that the organisation is automatically notified once the government is in receipt of such a request from that organisation.

Draft Regulations, Part 3, Section 7(2).

The text of Section 7 (2) is obscure, appears to be grammatically incorrect, and its meaning is wholly unclear.

Accordingly, **we request** a clarification of the meaning of Part 3, Section 7 (2).

Draft Regulations, Part 4, Section 9 (1) (d).

Section 9 (1) (d) states that a marine dredging application shall be accompanied by a fee of £29,000.

We assume that this fee covers the government's administrative costs, and **we request** confirmation that this is the purpose of this fee. This purpose being so, it is likely that this cost will rise with time due to inflation and other considerations. It therefore seems sensible to insert a statement that this fee is reviewable periodically otherwise the government will cease to recover its full administrative costs and thus, inadvertently, be subsidising the cost of the applicant. Accordingly, **we request** a modification of Section 9 (1) (d) to address this specific concern.

Question 6.

The draft regulations propose that extraction of less than 5000 tonnes should not require dredging permission unless is within 5km of the coastline, an ancient monument, an identified wreck, an existing or completed dredging operation that has ceased less than 12 months previously, the waters of another national government, an area identified by DEFRA as important for fishing or a European site.

We believe that this list of sites should also include areas known to be contaminated as a result of the previous dumping of sewage, dredging spoil, chemicals or radioactivity and whose disturbance is therefore likely to create a hazard to the marine environment. Accordingly, **we request** a specific amendment to this effect.

We note that the current consultation by government on a draft Marine Bill proposes the creation of Marine Protected Areas (Marine Nature Reserves). Such Marine Protected Areas are likely to be more than 5km from the coast and may not be European sites. Accordingly, **we request** clarification of how these regulations will respond to the proposed development of such Marine Protected Areas, many of which will likely be designated as "non-extractive" sites.

Questions 7 and 8.

We consider that it would greatly assist organisations like MARINET and other interested non-governmental organisations/persons if they could be placed on a government list – as advised above – thus enabling them to be informed of marine dredging applications. If this is not done, then the intention to consult widely and comprehensively prior to the submission of applications and once applications have been made cannot be fulfilled.

Question 9.

Of concern to us is the procedure whereby dredging applications are made, public consultation procedures under MMG1 and 2 are undertaken, and then when the application arrives with government (DCLG) the time period for determination becomes indefinite. Thus, if we take the application for Area 458/464 (Eastern English Channel), or Area 401/2 (Great Yarmouth) or Area 457 (Liverpool Bay) where we have submitted comments in respect of each, we are still unaware at the present time as to the nature of the decision that government (DCLG) has arrived at. If government grants a licence, it informs us. However if government refuses a licence or requires further studies to be undertaken or the applicant withdraws, we are not informed. This a most unsatisfactory situation

Accordingly, **we request** a procedure whereby once a final application has been submitted to government by the applicant under the Government View procedure (i.e. once all public consultation is complete and the applicant has replied to all public comments received) then there should be a specific period of time for the determination of the application by government. In circumstances where additional time or additional studies are considered to be necessary for determination by government, then **we also request** that a procedure be established which involves informing organisations who have made comments on the application of this time extension and the reasons for it. As a corollary, should additional studies be required, then further public comment should be permitted upon those studies; and, if the applicant withdraws, the organisations/persons who have submitted comments should also be informed.

Questions 10 and 11.

Of concern to us is the lack of guidance and procedures governing monitoring once licences have expired or been surrendered.

Such monitoring is essential in order to establish whether the seabed and the marine ecosystem recovers, and also the manner in which this recovery does or does not occur; and, such monitoring is essential in order to establish a scientific basis for the measurement of impact in order to inform decision-making regarding dredging licence applications in the future.

Accordingly, in accordance with the precautionary principle and the ecosystem-based system of management which are established as essential principles for management of the marine environment in *Safeguarding Our Seas, DEFRA 2002*, **we request** the establishment of clear procedures in the regulations which specify the framework for monitoring of the seabed and the marine ecosystem once licences have expired or are surrendered.

Question 12.

This question asks whether any procedures may be streamlined. In this regard, we ask for clarification of the procedure set out in Annex B (reference B11 and B16).

As we understand matters, government is now to allow a disputed application (i.e. an application where certain parties believe that their concerns are unresolved following the public consultation procedure set out in MMG1 and MMG2, and therefore those parties are asking for a rejection of the licence application) to be placed before an Inspector.

If our understanding is correct, we strongly support this new procedure.

However, we note that non-governmental organisations/persons are to be *invited* into this procedure by government. We would prefer that non-governmental organisations/persons have an automatic right to this procedure, and **we request** that the regulations be so modified. If government is not prepared to grant our request, then **we request** that non-governmental organisations/persons be allowed to ask the government to be invited into this procedure and that government must produce a written response with reasoning if this invitation is to be denied.

We also seek clarification on Section B11. At present, we are uncertain as to whether the involvement of non-governmental organisations/persons in the referral of a decision on a licence application by the Secretary of State to an Inspector will apply to all licence applications, or only

the sub-set of applications where the variation or revocation of an existing dredging permission is proposed by the Secretary of State.

Accordingly, **we request** that the procedure for the involvement of non-governmental organisations/persons in the referral of disputed applications to an Inspector be applied to *all licence applications*, both new and existing, and that this be clearly stated in an unambiguous manner in the Regulations and Annex B.

We would be grateful to receive your response to our requests and those matters on which we have sought clarification.

We would also be grateful for your acknowledgment of your receipt of these comments.

Yours sincerely

S. D. Eades
On behalf of
MARINET,
Marine Network of Friends of the Earth Local Groups.