

English Nature's response to Defra's consultation on review of licensing fees for FEPA Act 1985.

Three distinct questions are asked:

1. What are your views on the proposed fee increases to allow Defra to recover full costs?
2. How do you believe this proposal would affect your business?
3. Can you recommend an alternative strategy to those presented that would be preferable to your business?

All three of these questions appear to be aimed at clients of the FEPA licensing system rather than regulators and advisors. Clearly the costs of licensing and its implications are matters for those whose commercial and other interests are affected. In English Nature's case, the proposed costs revisions do not significantly affect our interests and therefore it would not be appropriate for us to comment.

English Nature is mindful, however, that there are aspects of the licensing system that do have implications for nature conservation. In particular we would raise the question of the duration of licenses and whether such licenses might be issued for longer time-frames. This is something that English Nature does believe to be significant because extending the duration of licenses reduces options for review and revision, and as a consequence may make it more difficult to gain any assurance that any detrimental impacts would be relatively short-term and reversible.

When English Nature and Defra first considered the concept of the maintenance dredging protocol, FEPA licenses were generally for a year and at most for three years. English Nature jointly seeks to reduce the frequency with which assessment was needed and to create a feedback loop to ensure that monitoring of the condition of Natura 2000 sites informed subsequent consent decisions. The concept of "core licences" was not considered, and this does raise a question of how deeply it may be necessary to scrutinise the baseline documents prepared under the maintenance dredging protocol, and therefore the level of information that might be required in the first instance. At the moment, we have accepted that baseline documents should work with what is readily available, and should not automatically necessitate additional studies. If, however, the duration of consents were to change significantly, this would inevitably be more problematic as English Nature would have to be able to demonstrate appropriate scrutiny. Under such a scenario it is possible that some estuaries would require further study before any degree of reassurance of no adverse affect could be achieved. English Nature would therefore be concerned if the concept of "core licenses" were to be developed as a standard for FEPA maintenance dredging proposals.

English Nature does recognise, however, that there are a small number of the bigger ports whose dredging activity has been well studied and is supported by modelling that means that longer licenses might be possible. English Nature doubts that licenses extending beyond the reporting period for Natura 2000 would be wise, especially as there is no obvious separation between the activity that merits agreement to a core license and that which should be licensed incrementally. Any cut-off point runs the risk of establishing a two-tier system that might significantly disadvantage smaller operators such as the marina industry. Equally, there may be ports where detailed scrutiny is needed on a more regular basis because of underlying concerns about the impact of maintenance dredging on estuarine morphology.

English Nature is mindful that the question of length of licenses is something that vexes the ports industry and therefore there will need to be further consideration of solutions. Therefore a two-stage process is suggested:

- Completion of the maintenance dredging protocol and consolidation of this as the English solution that is consistent with recent guidance from DG Environment on maintenance dredging; and then
- Evaluation of options to extend the duration of licenses to those ports whose maintenance operations are effectively ongoing (albeit as a series of campaigns every few months).

English Nature is committed to better regulation and is keen to ensure that the regulatory process is fit for purpose.

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10 April 2006