

Health and Safety Executive Board		HSE/14/77	
Meeting Date:	1 October 2014	FOI Status:	Open
Type of Paper:	Above the Line	Exemptions:	
TRIM Reference:	2014/334720		

REVIEW OF THE DANGEROUS SUBSTANCES IN HARBOUR AREAS REGULATIONS 1987 (DSHAR)

Purpose of the paper

1. The Board is asked to consider options for revising the Dangerous Substances in Harbour Areas Regulations 1987 (DSHAR) following a review of the regulations.

Background

2. DSHAR governs the safe storage, handling, loading, unloading and carriage of dangerous substances when they enter harbours and harbour areas. A summary of DSHAR provisions is at Annex 1.
3. The regulations were originally introduced in 1987, following an oil tanker explosion in Bantry Bay, Ireland in 1979. They have not been substantially revised since, meaning that some sections are now significantly out of date. The regulations were not specifically covered by Löfstedt, but were reviewed in response to the Red Tape Challenge, to determine whether they are still fit-for-purpose, or whether they should be revoked, rationalised or improved.
4. The regulations are supported by an ACoP (COP 18) and a guidance document "A guide to the Dangerous Substances in Harbour Areas Regulations 1987". A further guidance document – "The bulk transfer of dangerous liquids and gases between ship and shore", supports part of the regulations. These are also being reviewed as part of the project.
5. Although DSHAR applies to the same sector as the Docks Regulations 1988 (DR), which have now been replaced by a new ACoP, there are significant differences. For example, DSHAR covers both maritime and shore-side issues, and applies to specific operations concerning dangerous substances which have a greater major hazard potential than those regulated under DR. Consequently, the project is being taken forward separately.

Argument

6. A summary of evidence HSE has obtained to inform the review is given in Annex 2. This covers duplication of legislation, incident data, operational and enforcement data, and international comparisons. Further detail on the analysis of duplication with other legislation is at Annex 3.

7. Most (though not all) ports view the requirement in DSHAR for pre-notification of dangerous goods entering harbour areas as particularly important, as it underwrites their ability to prepare to receive such cargoes and manage the associated risks. Advance notification of dangerous cargoes is particularly important in the context of the 'Open Port Duty', which requires ports to accept ships where the relevant facilities exist and dues have been paid. Notification requirements for dangerous goods already exist in a European vessel traffic monitoring system, but not all ports receive this information (the system is mainly geared to providing information to national authorities) and it does not cover entry into ports by land.
8. There has been some concern from ports that revocation of DSHAR would mean that they may need to re-enact certain provisions in byelaws (e.g. a pre-notification requirement) – some feel this would impose additional costs and could lead to competition to reduce safety standards as well as introducing confusion for port users.
9. Feedback from local authorities suggests DSHAR provides clarity around emergency planning processes. Whilst the Civil Contingencies Act gives an overarching generic framework, it does not provide details around handling dangerous substances in ports. DSHAR is referenced in many harbour authorities' emergency plans and there are concerns that if DSHAR is revoked, businesses could shortcut the requirements to make commercial savings.
10. Unite and Nautilus UK have made clear that they would strongly oppose any revocation or dilution of the regulations. They have argued that even if the area is covered by other cross-cutting regulations, DSHAR is still needed to set out duties in ports and harbours, and it would not be appropriate for the regulations simply to be replaced by guidance pointing to other requirements.
11. Several stakeholders including the Department for Transport, the Road Haulage Association and some ports have pointed out that sections of the regulations relating to packaging and labelling of dangerous substances are not in line with the most recent regulations and codes on dangerous goods (in particular the International Maritime Dangerous Goods (IMDG) Code) and have requested that they are either removed altogether or at least updated. There has also been general agreement that some other sections of the regulations need updating. Stakeholders from both trades unions and industry have also said they regard DSHAR as a useful 'one stop shop' for duties on dangerous substances in ports.
12. Aside from the views above, some industry stakeholders including the UK Petroleum Industry Association, Freight Transport Association and the British Chamber of Shipping have preferred to wait until HSE makes firm proposals before commenting in detail.

Options considered

13. The following options have been considered for the future of DSHAR:

Option 1 – do nothing.

Option 2 – update references and simplify where possible but retain main provisions largely as they stand

Option 3 – remove redundant/duplicated sections of DSHAR but retain a slimmed-down version of the regulations targeted on major hazard issues

Option 4 – revoke and replace with a consolidated guidance document/ACoP

Discussion

14. Stakeholders have not proactively reported major practical problems with the regulations. However, given that many sections are out of date and HSE has publicised its intention to review DSHAR, Option 1 is not recommended. Option 2 is also not recommended as we have identified parts of DSHAR to be redundant or superseded, and thus to retain them would be contrary to better regulation principles.
15. Option 4 would completely remove the regulations from the statute book. However, our analysis has shown that complete revocation would leave some significant gaps in regulatory coverage, which could lead to increased risk. Revocation would be strongly opposed by some stakeholders, particularly trades unions.
16. One of the most important gaps concerns the DSHAR provisions on explosives. DSHAR requires harbours to be licensed to handle explosives. It also introduces other safety and security requirements for explosives in harbour areas. The DSHAR provisions are distinct from those in the new consolidated Explosives Regulations 2014 (ER 2014), which cover separate issues relating to the manufacture, acquisition, storage and transfer of explosives.
17. Some ports act as a funnel for movements of large quantities of explosives. DSHAR's explosives licensing requirements for ports therefore play an important role in managing societal risk. For example, they are important in setting safeguarding zones around ports that are factored into planning decisions, as well as ensuring the security of explosives in ports. Given the catastrophic potential of explosives accidents, we recommend that explosive licensing requirements in DSHAR should be retained.
18. Including DSHAR explosives provisions in ER 2014 was considered when ER 2014 was developed, but this was not done due to differences in scope, interpretation and approach between the two regimes. However if it is decided to revoke DSHAR, further consideration should be given to reinstating DSHAR explosives provisions elsewhere, possibly within ER 2014.

19. Other sections of DSHAR also address the regulation of the major hazard potential of dangerous substances and are related in part to issues of broader societal risk. For example, the sections on notification of entry into ports (which is necessary for ports to plan for receipt of and adequately segregate dangerous goods arriving on their estate) and emergency planning.
20. Many ports are COMAH sites. However, there are a significant number of ports and harbours that deal with sufficient quantities of dangerous substances to cause a risk of considerable harm, but because substances do not remain on the site long enough to count towards COMAH inventories, they are not subject to the rigorous COMAH regime. In addition, even where COMAH applies, the requirements would not cover 'wet side' activities, or, potentially, other parts of the harbour area where these do not fall into the COMAH establishment as defined.
21. Where sections of DSHAR are not duplicated by other existing legislation, there is a strong argument that they should be retained to ensure that risks from movements of dangerous substances are adequately controlled. Some further work will be needed to identify exactly which sections should be retained under option 3, but we expect that they would include those listed in Annex 2 para 4. An indication of the future shape of the regulations under Option 3 is given at Annex 4, though this is indicative at this stage.
22. Consequently, HSE and the majority of stakeholders who responded to this initial review believe that the regulations should not be revoked. Instead, by focusing on non-duplicated major hazard provisions in DSHAR we would achieve a substantial reduction in the regulations, whilst retaining a proportionate set of regulations targeted on areas of greatest risk. We therefore strongly recommend Option 3.

DSHAR ACoP and guidance

23. The DSHAR ACoP (COP 18) has not been updated since 1987, and is significantly out of date. HSE stopped publishing printed copies in 2007 due to lack of demand, and a web-based version was not produced following the discontinuation of HSE Direct. However, there is no record of any requests for the ACoP having been received in recent years before the start of this review, suggesting it is little used.
24. COP 18 does not distinguish between sections that are guidance and those that have ACoP status. An initial review suggests that many sections would not meet current ACoP criteria. However, further work is required on other sections to determine whether the material is still up to date and gives the current preferred method of compliance.
25. Port Skills and Safety (PSS), an industry association representing the majority of the UK ports industry, is open to the possibility of developing industry-maintained guidance (possibly jointly branded with HSE) either instead of, or in addition to, any HSE publication. PSS' guidance group, which worked on the new Docks ACoP, contains representation from trades unions and

industry as well as HSE. We will explore working further with this group once the preferred course of action on the regulations is clear.

Revocation of the Loading and Unloading of Fishing Vessels Regulations

26. HSE identified these regulations as suitable for revocation as part of the Red Tape Challenge exercise. Consultation on the revocation still needs to take place but could happen as part of a consultation on changes to DSHAR. Subject to the outcome of consultation, if we proceed to revise DSHAR as recommended above we propose to use this as an appropriate legislative vehicle to revoke the Loading and Unloading of Fishing Vessels Regulations.

Costs and benefits

27. An impact assessment is in preparation. Initial estimates are that any proposals would be low cost and eligible for via fast track clearance through the Regulatory Policy Committee.

Consultation

28. The project team has engaged widely with external stakeholders including the ports industry, trades unions (primarily Unite and Nautilus UK), harbour masters, Local Authorities, police, fire and rescue services and trade associations including those representing hauliers, shippers, and tank storage operators. Engagement has included bilateral meetings, port visits, a stakeholder workshop, and a questionnaire sent widely to stakeholders.
29. A project steering group has been set up involving the Maritime and Coastguard Agency, Department for Transport, Ministry of Defence, Office of Nuclear Regulation as well as Better Regulation Unit, OPSTD Transportation Sector, the Guidance Review team and HID Explosives policy within HSE. Home Office, Border Force, HMRC, Office of Rail Regulation, Defra and the Environment Agency have also been engaged.

Devolved Administrations

30. DSHAR applies across Great Britain. Northern Ireland has its own version of DSHAR that largely mirrors the Great Britain regulations but does not contain the provisions on explosives.
31. The Devolved Administrations were invited to contribute to the review, though all opted not to be involved in the detail of the work. However, HSE has kept them informed of developments and they have been sighted on this paper.

Action

32. The Board is invited to consider the proposed options for the future of DSHAR and provide a steer on its preferred way forward.

Next steps

33. Subject to the Board's steer, HSE will proceed with the project to amend DSHAR including seeking Ministerial agreement, preparation of revised regulations and formal consultation. A provisional timetable for the processes involved indicates that the work could be completed in time to make legislative changes on the common commencement date of 6 April 2016.

Paper clearance

34. This paper has been cleared by the Regulation Committee.

Annex 1 – summary of provisions in Dangerous Substances in Harbour Areas Regulations 1987

Part 1 (Interpretation and application) - regulations 1-5

- Definitions and application of the regulations

Part 2 (Entry of dangerous substances into harbour areas) – regulations 6-7

- 24h Notice required when dangerous substances are brought into a harbour area.
- Harbour master's powers of regulation and prohibition in relation to dangerous substances.

Part 3 (Marking and navigation of vessels) – regulations 8-15

- Flags & lights to be displayed by vessels; Marking of barges
- Provision and use of radios
- Requirements on navigation, anchoring and mooring of vessels

Part 4 (Handling of dangerous substances) – regulations 16-18

- General duties of persons handling dangerous substances to do so safely
- Duties of employers, self employed persons and berth operators to provide training, PPE, adequate supervision etc.
- Precautions to be taken against fire and explosions

Part 5 (Liquid Dangerous substances in bulk) – regulations 19-22

- Vessels to have certificate of fitness if loading/unloading
- Safety precautions for loading, unloading or transfer – use of safety checklist
- Ship-to-ship transfer and certain operations on vessels forbidden without prior permission

Part 6 (Packaging and Labelling) – regulations 23-25

- Freight containers to have packing certificate and to be ventilated where leakage
- Tanks and receptacles to be correctly designed, maintained, filled, etc.
- Labelling rules for containers and receptacles containing dangerous substances

Part 7 (Emergency Arrangements and Untoward Incidents) – regulations 26-28

- Harbour authorities to prepare emergency plans
- Emergency arrangements to be put in place at berths
- Untoward incidents (failures of containment) to be reported to harbour master

Part 8 – (Storage of Dangerous Substances) – regulations 29-32

- Safety precautions for storage tanks and for storage of freight containers, portable tanks and receptacles containing dangerous substances
- Designated parking area required for vehicles carrying dangerous substances

Part 9 – (Explosives) – regulations 33-42

- Harbour areas where explosives are handled must be licensed by HSE
- Precautions for the security of explosives, e.g. appointment of Explosives Security Officer
- Precautions for safe movement and handling of explosives in the harbour area
- Records relating to explosives to be kept for 5 years

Part 10 – (Miscellaneous and general) – regulations 43-47

- Power of a statutory harbour authority to make byelaws
- Enforcement of the Regulations – HSE and Statutory harbour authorities
- HSE or SoS may grant exemptions from the Regulations

Annex 2

Summary of evidence HSE has obtained to inform the review

Duplication analysis against other legislation

1. DSHAR covers similar ground to a wide range of other regulations, including other health and safety legislation (including COMAH, DSEAR, COSHH), maritime safety regulations, carriage of dangerous goods regulations, and local harbour acts and byelaws. A comprehensive mapping exercise has been undertaken to identify where the regulations are duplicated by other legislation.
2. The picture emerging from this exercise is complex and we are still discussing some areas with other government departments but the overall conclusion is that while many sections of DSHAR are duplicated elsewhere, there are some significant parts that are not completely covered by other legislation.
3. Duplicated sections of DSHAR include those on handling dangerous substances (covered by DSEAR, COSHH and fire protection legislation), packaging and labelling (superseded by carriage of dangerous goods legislation), storage of dangerous substances (covered by COMAH, DSEAR and PUWER), and transfer of liquid dangerous substances in bulk (covered mainly by COMAH).
4. Sections of DSHAR that are not clearly duplicated include:
 - a) a requirement to pre-notify entry of dangerous goods into a harbour area to the harbour master
 - b) powers given to harbour masters to regulate or prohibit entry of dangerous substances where their condition may cause a risk
 - c) a requirement on harbour authorities to produce emergency plans (this is partially covered by COMAH and Civil Contingencies Act 2004 (CCA), but many harbours are not COMAH sites and CCA covers a much wider range of scenarios so does not apply to harbours in as much detail)
 - d) a requirement to notify 'untoward incidents' (failures of containment of dangerous substances) to the harbour master
 - e) a requirement for ports where explosives are moved and handled to be licensed by HSE, and associated safety and security requirements
 - f) powers for harbour authorities to enact byelaws on dangerous substances (other byelaw-making powers exist but do not entirely duplicate DSHAR in scope)
5. A more detailed summary of the conclusions of the duplication analysis is at Annex 3.

6. A further feature of the regulations is that they are very prescriptive in style and often give detailed duties to specific actors within ports such as berth operators and berth owners. To the extent that the regulations are retained, there is scope for reformulating them in a more concise, goal-setting style, with the more prescriptive elements transferred to ACoP or guidance where they are still appropriate.

Enforcement and operational data

7. DSHAR is enforced by HSE or by Statutory Harbour Authorities, depending on the provision (Local Authorities do not enforce unless they are Harbour Authorities).
8. The level of HSE enforcement activity on DSHAR is extremely low, with HSE's records showing only one prosecution and three improvement notices under DSHAR since 1998.
9. There is no central record of enforcement of the regulations by Statutory Harbour Authorities, though a survey carried out by the project team identified 2 harbour authorities that had taken action under the regulations (out of 10 Statutory authorities who responded). Informal feedback suggests the regulations are rarely enforced on the grounds that fines imposed by local magistrates' courts are very low, meaning that other methods would normally be used to secure compliance, such as commercial penalties. However, some harbour authorities view the existence of legal requirements as important in securing compliance even if enforcement action is rarely pursued.

Incident data

10. HSE and industry statistics on RIDDOR-reported incidents suggest that only around 1-2 accidents and 1 dangerous occurrence are reported annually from ports relating to exposure to or escape of a dangerous substance. This is under 1% of the average number of reported incidents which occur in ports. However limitations in the way the data is categorised mean this cannot be considered comprehensive and could be a substantial underestimate.
11. Data from the Marine Accident Investigation Branch shows 30 reported maritime incidents in harbours in Great Britain over the last 13 years with the headline descriptor, 'escape of a harmful substance'. A further 167 cite some kind of release of substance in the incident record, though it is not clear which of these would have been regulated under DSHAR.
12. It is also important to recognise that DSHAR was introduced to control the risk of low-probability/high consequence accidents such as Bantry Bay and such risks are not fully reflected in annual accident statistics.

International comparisons

13. HSE has sought information on how DSHAR compares to relevant legislation in other EU Member States. This is not an area that has been subject to European harmonisation so there is considerable diversity as to how countries

organise their regulatory regimes for health and safety in ports and relevant information has been difficult to obtain.

14. Based on evidence we have gathered many coastal EU countries (Sweden, Finland, Spain, France, Germany, and Netherlands) have rules concerning dangerous goods in ports that are comparable to DSHAR, either in national or regional legislation or in port-specific byelaws. Some other countries do not have sectoral legislation for ports and regulate health and safety via cross-cutting health and safety legislation. The overall picture is difficult to assess but we have found no evidence that DSHAR significantly differs from, or exceeds, the level of regulatory control in other EU countries.

Annex 3 - Summary of duplication between DSHAR and other regulations

Section & Reg no	Title	Comments
Part 1	<i>Interpretation and application</i>	
1	Citation and commencement	Some of the definitions in this part can be removed or aligned with the latest Transport of Dangerous goods codes (International Maritime Dangerous Goods Code (IMDG), International Bulk Carrier (IBC), International Maritime Solid Bulk Cargoes (IMSBC) and International Gas Carrier (IGC) Codes.) They can also be updated in part to reflect the technological changes since the original creation of the regulations and there is considerable scope for simplification.
2	Interpretation	
3	Meaning of “dangerous substance”	
4	Definition of “operator”	
5	Application of these regulations	
Part 2	<i>Entry of dangerous substances into harbour areas</i>	
6	Notice of entry of dangerous substances	There is also a notification duty for dangerous goods in the Merchant Shipping (Vessel Traffic Monitoring and reporting requirements) regulations 2004 (VTM); however VTM does not cover notification from land or inland waterways. The purpose of the VTM system is different (it is aimed mainly at provision of information to national authorities rather than ports) and the information required is also less detailed than DSHAR. Therefore the notification duty is not fully duplicated by this system and remains important so that harbour masters receive the required information on
7	Harbour master’s powers of	

	prohibition, removal and regulation relating to dangerous substances	<p>dangerous goods.</p> <p>Some harbours may still have the powers to introduce byelaws to enact a requirement for notification; however this is not the case everywhere and may not cover regulating entry by land.</p> <p>Powers of direction/regulation of vessel movements are given to harbour masters in other legislation (Harbours, Docks and Piers Clauses Act 1847, Marine Navigation Act 2013, Dangerous Vessels Act 1985) but these apply only to marine activities, not the land side.</p>
Part 3	Marking and navigation of vessels	
8	Flags and lights to be displayed by vessels	<p>Safe navigation in ports is covered by a suite of measures under maritime legislation including harbour masters' powers of direction, byelaws under powers in the Harbours Docks and Piers Clauses Act 1947, and application of the Port Marine Safety Code, which is non-statutory but is an agreed code of practice between industry, trade unions and government and constitutes industry standard practice on port marine safety.</p> <p>Aspects of this part relating to navigation of vessels are also taken over by technological developments, e.g. many large ports now have Vessel Traffic Services and international regulations now require most larger ships to have Automatic Identification Systems, meaning that ships' movements can be monitored much more safely and accurately than was the case when DSHAR first came into force.</p> <p>Our current view is therefore that this section of the regulations is duplicated or superseded elsewhere, though this section is still under discussion with Department for Transport and the Maritime and Coastguard Agency.</p>
9	Regulations 6 and 8 not to apply to certain ferry-boats	
10	Vessels to keep a safe distance from moored or anchored vessels displaying the flag or light	
11	Marking of barges	
12	Control of harbour craft	
13	Provision and use of radios	

14	Anchoring and mooring of vessels	
15	Mobility of vessels	
Part 4	<i>Handling of dangerous substances</i>	
16	General duties of persons handling dangerous substances	The Dangerous Substances and Explosive Atmospheres Regulations 2002 (DSEAR), the Control of Substances Hazardous to Health (COSHH) regulations and the Management of Health and Safety at work regulations 1999 as well as the Regulatory Reform (Fire Safety) Order 2005 and the Fire (Scotland) Act 2005 were introduced after DSHAR and duplicate and supersede this part of DSHAR.
17	Additional duties of employers, self-employed persons and berth operators	
18	Precautions to be taken against fire or explosion	
Part 5	<i>Liquid dangerous substances in bulk</i>	
19	Fitness of vessels	Certificates of fitness (as required under regulation 19) are already required under the Merchant Shipping (Dangerous or Noxious Substances in Bulk) Regulations 1996.
20	Permission for transfer between vessels	Ship to ship transfer is covered under the Merchant Shipping (Ship-to-Ship Transfer) Regulations 2010, which prohibit ship-ship transfers unless in a specific location with the approval of MCA. In harbour authority waters the harbour authority needs to authorise the transfer.
21	Safety precautions for loading, unloading or transfer	COMAH or DSEAR and COSHH, together with the Merchant Shipping and fishing vessels (Health and safety at Work) Regulations 1997 would fully cover bulk transfer operations.

22	Certain operations on vessels forbidden without prior permission	Some of these sections have been superseded by the widely used ISGOTT Code (International Safety Guide for Oil Tankers and Terminals), which sets out industry standard practice on safety in this sector.
Part 6	<i>Packaging and labelling</i>	
23	Freight containers	Carriage of dangerous goods legislation has superseded the majority of these sections (the Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2009 (CGD 2009) and the Merchant Shipping (Dangerous Goods and Marine Pollutants) Regulations 1997.)
24	Tanks and receptacles	
25	Labelling	
Part 7	<i>Emergency arrangements and untoward incidents</i>	
26	Preparation of emergency plans by harbour authorities	This section overlaps in part with emergency planning requirements in the Civil Contingencies Act 2004 (CCA) and COMAH. However CCA covers a wider range of scenarios and does not specifically require harbour authorities to produce plans. Also, not all harbours fall under COMAH since dangerous goods may not be present for sufficient time or in sufficient quantities for COMAH requirements to be triggered, and COMAH plans may not cover all parts of the harbour area (e.g. 'wet side' shipping movements). Emergency planning is covered briefly under the Port Marine Safety Code, but the Code refers back to DSHAR for the legal requirements. The requirement to notify the harbour master of an 'untoward incident' i.e. a loss of containment, is not covered elsewhere.
27	Emergency arrangements at berths	
28	Untoward incidents	

Part 8	Storage of dangerous substances	
29	Application of this part	<p>The subject matter in these sections are duplicated by COSHH, DSEAR, PUWER and the Management of Health and Safety at Work regulations, and possibly COMAH where it applies. Storage tanks exist in other areas than harbour areas and would in those cases be regulated by these instruments.</p> <p>Regulation 32 however is not directly duplicated elsewhere. Department for Transport (DfT) colleagues report that the European Agreement concerning the Carriage of Dangerous Goods by Road (ADR) cross refers to this so have recommended retaining it. CDG 2009, which implements ADR in the UK, requires that Class 1 goods (explosives) are delivered to 'qualifying premises'. A designated parking area is a qualifying premises.</p>
30	Storage	
31	Storage of freight containers, portable tanks and receptacles containing dangerous substances	
32	Parking of road vehicles carrying dangerous substances	
Part 9	Explosives	
33	Application of this part	<p>Explosives licensing for harbour areas is not duplicated in other legislation.</p> <p>HSE's view is that the licensing provisions are broadly fit-for-purpose and necessary to retain in view of the high hazard potential arising from transit of large consignments of explosives through ports and the potential for catastrophic events if proper safeguards are not in place. However some amendments may be appropriate to the detail to ensure the provisions are up-to-date and workable.</p>
34	Need for an explosives licence	
35	Applications for explosives licences	
36	Consideration of licence applications	

37	Security of explosives	
38	Vessels and vehicles loaded with explosives to be taken out of harbours and harbour areas	
39	Harbour craft carrying explosives not to carry passengers	
40	Electro-explosive devices	
41	Deteriorated explosives	
42	Records relating to explosives to be kept	
Part 10		
43	Power of a statutory harbour authority to make byelaws	Powers for harbour authorities to enact byelaws on dangerous substances do exist (Harbours, Docks and Piers Clauses act 1847) but they do not totally duplicate DSHAR in terms of scope. Importantly, DSHAR enables harbour authorities to enact byelaws specifically to regulate dangerous substances, e.g. to prohibit entry of certain classes of substance into the harbour on safety grounds, and this would not be possible under other maritime or harbours legislation.
44	Enforcement of these Regulations	

45	Defence in proceedings for contravening these Regulations or byelaws	Enforcement is covered by Maritime and Coastguard Agency/HSE/Marine Accident Investigation Board Memorandum of Understanding and there has been no indication that the general principles need to change.
46	Power to grant exemptions from these Regulations	
47	Repeals, revocations, modifications and savings	

Annex 4 – indicative summary of provisions that would be retained under Option 3

NB this list is purely indicative at this stage and subject to further work to determine the final shape of the regulations if Option 3 is chosen.

Part 1 (Interpretation and application) - regulations 1-5

- Definitions and application of the regulations

Part 2 (Entry of dangerous substances into harbour areas) – regulations 6-7

- 24h Notice required when dangerous substances are brought into a harbour area.
- Harbour master's powers of regulation and prohibition in relation to dangerous substances.

Part 7 (Emergency Arrangements and Untoward Incidents)

- Harbour authorities to prepare emergency plans
- Emergency arrangements to be put in place at berths
- Untoward incidents (failures of containment) to be reported to harbour master

Part 8 – (Storage of Dangerous Substances)

- Designated parking area required for vehicles carrying dangerous substances

Part 9 – (Explosives)

- Harbour areas where explosives are handled must be licensed by HSE
- Precautions for the security of explosives, e.g. appointment of Explosives Security Officer
- Precautions for safe movement and handling of explosives in the harbour area
- Records relating to explosives to be kept for 5 years

Part 10 – (Miscellaneous and general)

- Power of a statutory harbour authority to make byelaws
- Enforcement of the Regulations – HSE and Statutory harbour authorities
- HSE or SoS may grant exemptions from the Regulations