

NWIFCA Annual Meeting

14th June 2013: 10.30 a.m.

AGENDA

ITEM NO.

13

BYELAW 6: PROTECTION FOR EUROPEAN MARINE SITE (EMS) FEATURES

Purpose of Report

To present a draft byelaw for discussion and outline approval

Recommendations

- I. Agree the closed areas as set out in the draft byelaw with any amendments as required;
- II. Agree to prepare and implement the proposed byelaw and impact assessment to be made at the September meeting and implemented by end 2013 to meet Defra deadline;
- III. Agree proposed stakeholder consultation plans.

Background

1. Some of the March report is included here for reference. Defra require a revised approach to management of fisheries in EMS. This requires the impacts of all fishing activities in EMS to be assessed in line with Articles 6.2 and 6.3 of the EU Habitats Directive. Any damaging activities will require regulation by the IFCA to mitigate any impacts identified.
2. Assessing all fisheries in all EMS in England is a huge task. The “risk based, prioritised approach” being taken uses ‘traffic light’ (red, amber, green) indicators so that the most vulnerable and sensitive habitats and the most damaging fishing activities are deemed red and assessed first. Types of fishing gear interacting with EMS conservation features have been assessed and coded according to risk in a very large coloured matrix:
3. **Red** feature and gear combinations are assessed to be the most sensitive to damage and most likely to be impacted by fishing. These are generally found where fishing gear is towed or could be towed across sensitive seabed features.
4. The most sensitive features are deemed to be so called reefs which may be biogenic reefs (created by organisms such as Honeycomb worm (*Sabellaria spp*) or mussels (*Mytilus edulis*), cobble/boulder reefs (naturally occurring cobble bolder seabed) or bedrock reefs¹ as well as seagrass beds. These combinations are considered to be at highest risk from towed gears. Defra have set a deadline of December 2013 for management to be put into place for ‘towed gear on reef’ combinations.
5. **Amber** gear/feature combinations are those not deemed to be red risk where fishing gear of any type could occur on conservation features of EMS and may cause impacts. There could be a large number of such cases and all will require individual site specific impact assessment to determine whether they can continue to take place in the future. In order for these activities to continue they will have to show that they have no ‘likely significant effect’ (as in Habitats Regulations) on any EMS features. In effect all fishing on EMS may in

¹ Reefs of the honeycomb worm and cobble reefs are not reefs as would normally be understood by non-scientists. The Honeycomb worm builds temporary sandy mounds of its tubes which may be up to 1m high. The mounds may last a few years but are often destroyed by winter storms or may be smothered by dense settlements of mussels. Cobble reefs are boulder seabeds. They are of interest because the crevices between rocks provide habitat for other species which may be of greater interest than the reefs themselves.

future require consent under this new approach. The Defra deadline for completion of all the amber assessments and for management measures to be put in place is the end of 2016.

6. **Green** gear/feature combinations are those deemed highly unlikely to have a negative impact on SAC features. Where they take place on EMS they will still have to be assessed in case there are impacts arising from activities happening in combination with others.
7. There is a further blue category of combinations for those where there can be no feasible interaction between the gear type and sub feature. This category should not require any additional work.
8. More information on the revised approach, the full matrix the output of the IG and other background documents can be found on the MMO website at http://www.marinemanagement.org.uk/protecting/conservation/ems_fisheries.htm

NWIFCA timescale for an EMS byelaw covering red risk features

9. There are 5 SACs and 8 SPAs with marine components in the NWIFCA district. After assessing the sub features of these EMS against the generic matrix and discussions with Natural England, 6 areas in 4 EMS were identified as having 'red risk' gear/feature combinations as listed below. These areas will require protection in a NWIFCA byelaw to comply with the Defra policy on EMS.
10. We had intended to complete the data acquisition, mapping, consultation with stakeholders and legal drafting in time to make the required byelaw at this meeting. However, finalised data was not identified by Natural England and supplied to NWIFCA until late May. Then GIS mapping of the data by science officers revealed issues which require discussion with stakeholders. Drafting the byelaw, regulatory impact assessment (RIA) and detailed GIS mapping has taken some intensive weeks work.
11. The new timescale is that we will aim to carry out consultation with stakeholders, final drafting of the byelaw and RIA and consultation on the byelaw with MMO legal officers through June to August. If this can all be completed, a final agreed byelaw will be brought to the Authority to be formally made at the September meeting.

Content of the Byelaw

12. A draft byelaw and RIA is attached at Annex A. The broad structure of both documents has been checked and approved by MMO. The byelaw defines and shows areas in 6 SAC in the NWIFCA District where there are features deemed highly sensitive (red) under Defra's current policy. The closed areas are drawn with buffer zones which generally follow advice from NE on the size of buffer zones required to provide sufficient protection for the features. This advice is that buffer zones should be 4x the depth of water although this may be reduced where depths are less than 20m. These areas and issues to be resolved are discussed below.
13. **Area I. Solway Firth SAC.** Subtidal boulder and cobble reef is found at the seaward edge of skear ground towards the southern boundary of the SAC. Adjoining this area, is an intertidal area on which data records the presence of Honeycomb worm (*Sabellaria alveolata*) reef in the past. A survey to map this reef in spring 2013 found that Honeycomb worm reef was not currently present in the SAC but is still found to the south of the SAC.
14. Both these reef features qualify as red. The Byelaw proposes a towed fishing gear closed area covering both the subtidal boulder and cobble reef in the SAC and the intertidal area where Honeycomb work has been present in the past. The closed area has been extended outside the SAC to the south, to include areas of boulder and cobble reef and areas where Honeycomb worm was found in the recent survey.

15. The reason for protecting the area where honeycomb worm has existed in the past is the precautionary principle and to allow the species to return to the area in the future. The area outside the SAC is proposed to protect the same features on the grounds that they are sensitive and worthy of protection. Although much of the reef areas south of the SAC may receive protection as MCZ, this will still not cover all the feature and NWIFCA suggests that Natural England considers underpinning this byelaw by extending the boundary of the SAC to include the skear areas to the south of the SAC.
16. We understand that this area will have negligible impact on fishing in the area although we will be consulting with the Silloth shrimping fleet which operates in the Silloth channel to see if the seaward side of the area will have any impact on their fishing pattern.
17. **Area II Shell Flat and Lune Deep cSAC.** Subtidal Bedrock Reef and Subtidal Boulder and Cobble Reef occur on the northern wall of Lune Deep. The proposed boundary of the closed area mostly follows the boundary of the SAC as this provides an adequate buffer for most of the site. To the North East, the closed area extends beyond the Lune Deep SAC and into the Morecambe Bay SAC.
18. The Lune Deep is fished by a small number of trawlers from Fleetwood. These under 10m inshore vessels are experienced in avoiding contact with the reef area which would damage gear and could result in loss of gear or even loss of a vessel. However, the pattern of fishing is unusual but important to the livelihoods of these few fishermen.
19. Fishing is worked east to west and west to east with tides such that the gear is kept on the sandy bottom of the Lune Deep at all times. However, tides flow north-south reversing with ebb and flood. This can result in the vessel at the surface moving over reef and therefore being within the closed area while the gear remains on the sand at the surface may be over the reef.
20. This closed area will have to be enforced sensitively to allow existing fishing patterns to continue since fishing has no impact on the reef features. Consultation with fishermen who use the Lune Deep will be carried out before the byelaw is finalised.
21. **Area III Morecambe Bay EMS Seagrass (*Zostera spp*) beds.** Four separate areas of seagrass beds have been identified in the Walney Channel of Morecambe Bay. The separate areas have been identified to allow bait digging activities to continue in between the seagrass areas. It could be argued that a single large box encompassing all the seagrass areas should be protected to allow regeneration but this would have a significantly greater impact on local fishermen and would require more extensive consultation.
22. **Area IV Morecambe Bay EMS Bolder and Coble reef.** The closed area covers the known reef area with a buffer which meets Natural England advice. We have no evidence that this closed area will have any impact on local fishing.
23. **Area V Morecambe Bay EMS Honeycomb worm (*Sabellaria alveolata*) reef on Heysham skear.** The proposed protected area extends to cover the whole area of the skear to allow natural spreading of honeycomb worm reef. There is no evidence that this closed area will have any impact on local fishing.
24. The main fishing activity which occurs from time to time is seed mussel fishing by hand. This is always subject to assessment (HRA) and permit by the NWIFCA and management of the site always includes restrictions to protect any Honeycomb worm reef if it is present.
25. **Area 6 Dee Estuary EMS Honeycomb worm reef at Hilbre Island.** The closed area covers the known reef area with a buffer which meets Natural England advice. We have no evidence that this closed area will have any impact on local fishing.