

NWIFCA Quarterly Meeting

19 April 2013: 10.30.a.m.

AGENDA

ITEM NO.

14

REVISED APPROACH TO FISHERIES ACTIVITY IN EUROPEAN MARINE SITES (EMS)

Purpose of Report

To update Members on Defra's "revised approach to fisheries in EMS". Progress of the review of fishing activity on EMS sites nationally and locally is reported. Management measures considered urgent for 'so called' high risk features and activities in the NWIFCA district are recommended for members' consideration.

Recommendations

- I. **Agree NWIFCA work on EMS as required by Defra is high priority in 2013-14;**
- II. **Agree to prepare and implement the proposed byelaw and impact assessment to be made at the June meeting and implemented by end 2013 to meet Defra deadline;**
- III. **Notify officers of any stakeholders who should be consulted on the proposed byelaw.**

Background

1. As reported previously, Defra require a revised approach to management of fisheries in EMS. The new approach is designed to bring the management of commercial fisheries activities in line with the approach taken for other consented activities taking place in EMS in line with Articles 6.2 and 6.3 of the EU Habitats Directive. The new approach was precipitated by a legal challenge from Client Earth and Marine Conservation Society that up to now EMS have not been managed in compliance with the Habitats Directive.
2. An Implementation Group (IG) with representatives from MMO, IFCA and Natural England together with the fishing industry and NGO was set up by Defra in September 2012 to deliver the new approach. The CEO attends this group. Further workshops and working groups called to develop the project are attended by NWIFCA scientists.
3. Assessing all fisheries in all EMS in England is a huge task. A "risk based, prioritised approach" is being taken using a 'traffic light' (red, amber, green) system so that the most vulnerable and sensitive habitats and the most damaging fishing activities (red) are looked at first. Types of fishing gear interacting with EMS conservation features have been assessed and coded according to risk in a very large coloured matrix:
4. **Red** feature and gear combinations are the most sensitive 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.
5. 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

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.

towed gears. Defra have set a deadline of December 2013 for management to be put into place for 'towed gear on reef' combinations.

6. **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 will in 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.
7. **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.
8. 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.
9. 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.marinemangement.org.uk/protecting/conservation/ems_fisheries.htm

EMS in NWIFCA District

10. 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, 7 areas in 4 EMS were identified as having 'red risk' gear/feature combinations as listed below. Work is on-going with national and regional Natural England teams to create definitive maps of these features.

Solway Firth SAC

- a. Subtidal Boulder and Cobble Reef is found at the seaward edge of skear ground.
- b. *Sabellaria alveolata* reef also occurs on skear ground. In the absence of definitive mapping of reef the Solway, it may be necessary to protect the whole skear areas.

Shell Flat and Lune Deep cSAC

- c. Subtidal Bedrock Reef and Subtidal Boulder and Cobble Reef occur on the northern wall of Lune Deep.

Morecambe Bay SAC

- d. Subtidal Boulder and Cobble Reef occurs at the end of Lune Deep, in the Walney Channel and may also be found at Heysham Lake but this is to be confirmed.
- e. *Sabellaria alveolata* reef is found on Heysham Flat.
- f. Seagrass (*Zostera* spp) occurs in a small area in northern Morecambe Bay.

Dee Estuary SAC

- g. Small areas of poorly developed *Sabellaria alveolata* reef around Hilbre Island are deemed to require statutory protection.

Proposed Management Measures

11. In order to protect the areas listed above, Officers propose a single byelaw that prohibits seabed towed fishing gear of all types in prescribed areas that contain reef or seagrass features as listed above. Bait digging and hand working in sea grass beds will also be prohibited. An outline of a proposed byelaw is at Annex A. The byelaw will require preparation of an Impact assessment and consultation with stakeholders.
12. Over the next 2 months, officers will aim to acquire all the available data for the 7 areas listed in the byelaw from Natural England. The boundaries of the areas to be protected will be defined. Maps and co-ordinates of the areas will be included in the byelaw.
13. In order to adhere to the timeline set by Defra, this byelaw should be made at the June meeting of the NWIFCA or at the latest at the September meeting (although this would give reduced time for consultation and enactment of the byelaw).
14. Due to the nature of fishing activity and the areas where prohibition is required officers expect that the impact of this byelaw on the industry will be low. There is no evidence that fishing using seabed towed gear actually takes place in any of the areas a-g listed above.
15. Officers have provided an update of this work during community information meetings and will continue to consult stakeholders informally and via formal byelaw consultations.

Resourcing the EMS work

16. The EMS new approach project is a major new priority for NWIFCA set by Government. Defra's expectations of IFCA to deliver the work are set out in the letter at Annex B and briefing paper at Annex C. IFCA have agreed with Defra that the high level objectives set in 2011 should be adjusted as necessary. Amendments to the HLO will be made in the annual plan and the work will be included in the work plan of the science team.
17. CEO estimates that a full time equivalent post will be required in 2013-14. This resource will be taken from the science team which will limit capacity for other planned work. As yet the resources required for the project in 2014-16 are unclear but we must expect that the project will impact NWIFCA priorities until completion of the amber work in 2016

**CEO and Science Officers;
March 2013**

ANNEX A

PROPOSED BYELAW 6: PROTECTION FOR EUROPEAN MARINE SITE FEATURES

No person shall use any bottom towed gear except with the written permission of and using gear approved by the NWIFCA in the following areas

1. Lune Deep (use SAC co-ordinates) and Morecambe Bay bolder and coble skear adjoining Lune Deep SAC
2. Solway Firth bolder and coble skear areas (1 or a number of patches to be determined)
3. Morecambe Bay Heysham Sabellaria alveolata reefs
4. Morecambe Bay bolder and coble skear; Heysham Lake – area to be determined
5. Morecambe Bay bolder and coble skear; Walney Channel
6. Dee Estuary, Hilbre Island, Sabellaria – existence and location remains uncertain
7. Morecambe Bay, Seagrass beds

All bait collection and hand worked fisheries and vehicular access are prohibited at all times in Area 7.

Explanatory note:

Bottom towed gear means any fishing gear towed by boat, vehicle or animal in contact with the seabed below Mean High Water.

ANNEX B



Department
for Environment
Food & Rural Affairs

Nigel Gooding
Deputy Director – Marine
Biodiversity
Area 2C, Nobel House
17 Smith Square, London
SW1P 3JR
T: 020 7238 6827
E-mail:
[nigel.a.gooding@defra.gsi.
gov.uk](mailto:nigel.a.gooding@defra.gsi.gov.uk)
www.defra.gov.uk

Stephen Atkins
(by e-mail only)

14 February 2013

Dear Mr Atkins,

Implementing the revised approach for the management of commercial fisheries in European Marine Sites.

The purpose of this letter is to set out Defra's expectations of IFCA's in relation to taking forward the above work. A similar letter is being sent to the Marine Management Organisation.

As you are aware, Defra has taken the decision to revise the approach to the management of commercial fisheries in European Marine Sites in English waters. I would like to re-iterate our thanks to all ICFAs for their continued positive support, advice and involvement in this important area of work.

We have been working hard to develop an implementation process around the revised approach, which ensures that its delivery will be both effective and proportionate. The IFCA's have played an important role in the development of this approach and will be critical to its successful implementation.

Following a meeting of the Project Board for this work area on the 25th of January 2013 (at which IFCA's are represented by Dr Stephen Bolt), I am writing to highlight the key project milestones and to ensure that all IFCA's are clear on the Government's expectations of them in relation to this work. This is set out in the following paragraphs:

- 1) working with the Project 'Implementation Group' Defra has agreed an evidence based Matrix in which fishing activities will be classed as Red, Amber, Green or Blue according to the sensitivity of the site features to different gear types;
- 2) for activities identified as Red, the Department's expectation is that management measures will be in place by end 2013. If, due to exceptional circumstances, a regulator becomes convinced that, despite its best efforts, it will be unable to fulfil this undertaking, then it should inform Defra immediately this becomes clear.

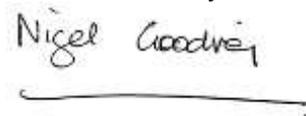
- 3) consideration must be given to the use of emergency byelaw powers or other appropriate measures where it is clear there is an existing or imminent threat to any Red feature, and/or cases where a delay in implementation beyond the end of 2013 is expected;
- 4) Defra expects that appropriate management measures will need to be statutory in nature to ensure adequate protection is achieved. Management decisions should be based on the best available evidence, but using a precautionary approach;
- 5) for activities identified as Amber² a site level assessment will be required to assess whether management of an activity is required to conserve site features. Fishing activity or activities should only be allowed where it can be ascertained that they will not have an adverse affect on the integrity of a site. In all other cases appropriate management measures should be put in place to remove the risk of an adverse effect. The Department expects such measures to have been identified and put in place by 2016;
- 6) regulators should note that there may be features rated at an Amber level in the generic matrix, that at a site level are under a high degree of risk. Natural England will provide advice on such features and regulators may need to consider prioritising work on these features in a similar manner to those rated as Red.

We are preparing a policy note to support the implementation of the revised approach and an explanatory note on site integrity, which will be circulated in due course.

Officers from Defra are attending IFCA meetings to brief Committees and Officers, and to answer questions on the revised approach. Defra is preparing a communication plan for this work and will be inviting contributions from the IFCAs, as well as others in the Defra Marine Network. We are encouraging all IFCAs and the MMO to engage with your stakeholders at the earliest opportunity. Please find attached three key messages and additional supporting information from Defra which we hope you will use to communicate this work more widely.

We look forward to continued and positive work with all ICFAs, and once again thank you for all your support and hard work on this issue.

Yours sincerely



Nigel Gooding

cc. Dr Stephen Bolt, Chief Executive Officer, the Association of IFCAs;

² Activities identified as green should be considered in a similar manner if there is an “in combination” effect on the site.

Commercial Fisheries in European Marine Sites *(Defra note of key messages underpinning this project)*

Aims of project

- To ensure that all existing and potential commercial fishing operations in English inshore waters are managed in accordance with Article 6 of the Habitats Directive.
- To ensure management measures for the conservation of sites in UK offshore waters are proposed in accordance with European Commission guidance.

Key messages

- Defra is working with stakeholders to revise the approach to the management of commercial fisheries in European Marine Sites (EMS) in English inshore waters, to conserve important habitats and species in line with our obligations under the EU Habitats and Birds Directive.
- The revised approach will be based on an assessment of the level of risk that fishing activities present to the protected species and habitats in these sites. Fisheries regulators will use this as a starting point to help them decide whether additional management measures or further site-based assessments are needed.
- This work contributes to Defra's aim to make our inshore fisheries more sustainable while protecting the marine environment and resources. All other marine industries and activities are required to comply with the EU Habitats and Birds Directives.

Supporting information

- European Marine Sites (EMS) are areas of the sea that are protected because they support wildlife and/or habitats that are of European importance. These sites contain some of England's most vulnerable marine wildlife and habitats including for example sea grass beds, cold water rocky reefs and seabird colonies.
- Within EMS, important social and economic activities such as fishing, recreation and other industries take place. It is important that we ensure that where these activities occur, they do so in a manner that is consistent with the protection of the site.
- EMS sites consist of Special Areas of Conservation (SACs) or Special Protection Areas (SPAs) identified or designated under the EU Habitats and Birds Directives, and sites in the sea designated under the Ramsar Convention. This revised approach does not apply to Marine Conservation Zones (MCZ's) or Sites of Special Scientific Interest (SSSI's).
- Defra has set up an Implementation Group involving key marine stakeholders and government organisations. This Group is advising on how the revised approach can be implemented effectively and practically, considering the impacts of management measures available and a suitable timetable for delivery.
- Working with the Implementation Group, Defra has developed a risk matrix which categorises fishing activities as red, amber, green or blue by the level of risk that they present to certain types of protected marine habitats or species.
- The revised approach is risk based. Fishing activities which present the highest risk to protected features will be looked at first. For the fishing activities rated as red, we expect fisheries regulators (primarily the Marine Management Organisation and Inshore Fisheries and Conservation Authorities) to implement management measures by December 2013.

- For activities rated amber and green, Defra has requested that the fisheries managers carry out a site-based assessment to identify whether additional management is needed. If management is required, these should be introduced by 2016 or sooner where activities pose a high risk to the site.
- For activities rated blue, Defra advises that there will not be an impact on the protected features of sites and no further assessment or management will be needed.
- The next step is for the fisheries regulators (working with Natural England) to apply the matrix to the EMS sites in the areas of sea for which they are responsible. This information will help them to identify which activities may require further local management measures or a site-based assessment.
- Local management decisions will be based on the best available evidence, but using a precautionary approach.
- For EMS sites beyond 12nms, designated species and habitats are required to have sufficient protection to ensure compliance with the Habitats and Birds Directives. Because the Department will need to submit any required fisheries management proposals to the European Commission, these sites will follow a different process so that regulations are in place by 2016.
- The process of developing and delivering the revised approach for English inshore EMS has been a clear demonstration of industry, NGOs and Government and the relevant regulators working together in a constructive manner to deliver sustainable management of our marine environment.

For more information, see:

www.marinemanagement.org.uk/protecting/conservation/ems_fisheries.htm