

Vision

The Eastern Inshore Fisheries and Conservation Authority will lead, champion and manage a sustainable marine environment and inshore fisheries, by successfully securing the right balance between social, environmental and economic benefits to ensure healthy seas, sustainable fisheries and a viable industry



Action Item AOB

33rd Eastern Inshore Fisheries and Conservation Authority meeting

18th July 2018

Report by: Julian Gregory – CEO

Wash Fishery Order (WFO) 1992 Regulations: update

Purpose of report

The purpose of this paper is to seek approval to amend the proposed Wash Fishery Order (WFO) Regulations with regards to reporting rates and the definition of electronic monitoring devices.

Recommendations

Members are asked to:

- **Note** the content of the report.
- **Agree** to amend the reporting rates required in the WFO Regulations from 'once in every ten minutes' to 'once in every three minutes'.
- **Agree** to the revised definition of an I-VMS device set out in Appendix 2.

Background

At the 27th Eastern IFCA Meeting, members agreed to make new Wash Fishery Order (WFO) 1992 Regulations, which included a requirement for vessel to have a functioning electronic monitoring device. Officers were directed to undertake a formal consultation on the regulations prior to submitting to the Minister for approval.

Eastern IFCA is also participating in the national project to install inshore Vessel Monitoring Systems (I-VMS) on all licensed fishing vessels <12m in overall length utilising European Maritime and Fisheries Fund (EMFF) funding. A part of this project is a pathfinder for vessels operating in The Wash and North Norfolk Coast SAC. Previous advice from the EMFF funding team indicated that EMFF funds could not be utilised for things that are mandated by regulation, although it was acceptable to fund in advance of regulation.

Following consultation on the new WFO 1992 Regulations officers reported the outcome at the 32nd Eastern IFCA meeting. This included updated wording within the proposed Regulations in relation to electronic monitoring devices that reflected the wording of a byelaw recently introduced by Devon and Severn IFCA and a requirement that electronic monitoring devices report once in every ten minutes.

Members directed officers to submit the proposed Regulations to Defra for consideration by the Minister subject to the implementation of I-VMS on associated vessels to ensure the EMFF funding was available to these fishers.

During the meeting concern was raised about Regulation 7, which covers the use of tenders in the fishery. It was questioned whether the use of tenders required a separate MMO licence to fish. As a consequence, Members also made the decision to submit the Regulations for approval subject to favourable advice from the MMO regarding the legality of using tenders within the fishery.

Report

Advice from the EMFF team regarding the use of EMFF funding for matters that are mandated by regulation has now changed and funds can be used for such purposes. The national project is now working on this basis and there is no longer any reason to delay implementation of the revised WFO Regulations and it is recommended that they are put to the Minister at the earliest opportunity.

Officers based reporting requirements for electronic monitoring devices on the national proposals which were originally that devices must report once in every ten minutes. The project board for the delivery of I-VMS has subsequently decided to increase the reporting rate to once in every three minutes and this is likely to be reflected in any national requirements.

Given that the WFO Regulations have yet to be submitted to the Minister, there is an opportunity to amend the I-VMS requirements to reflect the national approach and to ensure consistency. Officers have also been advised that there will be no additional cost to fishers by increasing the reporting rate to once in every three minutes, including in the case of both I-VMS and VMS+ devices.

Furthermore, the MMO have verbally advised that the use of tenders in hand-work fisheries is not illegal, including if transshipping cockles from a tender to a fishing vessel. It is recommended that when the Regulations are submitted to Defra for formal consideration, any potential conflict between the Regulations and MMO licencing rules will be highlighted in any case.

The revised regulations define what a 'remotely accessed electronic reporting device' is for the purposes of Regulation 3. The definition refers to such devices as those produced by certain manufacturers on the basis that they have been type approved by the MMO. One of the manufacturers has now pulled out and others are expressing interest in having new I-VMS devices type approved. It is therefore recommended that the wording of the definition in the 'Interpretation' section of the regulations is revised to reflect that of the proposed Shrimp Permit Byelaw 2018 (Appendix 2 refers), which will cater for any changes in type approved devices in the future.

Financial implications

No financial implications are identified. Call charge costs for fishers with I-VMS devices have been based upon the three minute reporting rate.

Legal implications

There is an inherent legal risk associated with implementing new Regulations. This is to a large extent mitigated through the informal and formal consultations which took place prior to this step in the process.

Risk is further reduced by Defra having to consider the wording of the Regulations, the Impact Assessment and the supporting evidence (including the objections made during the formal consultation).

Appendices

1. Revised wording of Regulation 6 (Vessel Monitoring System)
2. Revised wording of sub-paragraph 12 of section 1 - Interpretation

Appendix 1 – Revised wording of Regulation 6 (Vessel Monitoring System)

6. Vessel Monitoring System

- 1) A person must not use a vessel to fish for, take or remove from the fishery any of the prescribed species, enter the area of the Wash Fishery Order 1992 or leave a port within the area of the Wash Fishery Order 1992 unless a fully functioning, remotely accessed electronic reporting device is on board the vessel at all times and where the required information is transmitted every ten minutes.
- 2) If the remotely accessed electronic reporting device installed pursuant to subparagraph 1 (above), has failed to transmit the required information, for whatever reason, a person must;
 - a) if at sea, immediately cease fishing and immediately return to port or leave the area of the Wash Fishery Order 1992;
 - b) if at port or outside the area of the Wash Fishery order 1992, remain there.
- 3) Where a remotely accessed electronic reporting device has been repaired or replaced the Licence Holder, Nominated Representative or Nominated deputy must provide a copy of the engineer's report to the Authority confirming that the equipment is fully operational before;
 - a) leaving port;
 - b) entering the area of the Wash Fishery Order 1992; or
 - c) fishing for, taking or removing from the fishery any of the prescribed species.

Appendix 2 – Revised wording of para 12 of section 1 - Interpretation

12) “remotely accessed electronic reporting device” means one of the following devices that transmits the required information;

- i. A ‘Vessel Monitoring System +’ device that meets the requirements for such devices required by the Marine Management Organisation;
- ii. A device that is listed on the Marine Management Organisation and Inshore Fisheries and Conservation Authorities Inshore Vessel Monitoring System approved products register;