

Title: Emergency Vessel Monitoring System (VMS) Byelaw IA No: 0010 RPC Reference No: n/a Lead department or agency: Eastern Inshore Fisheries and Conservation Authority Other departments or agencies: n/a	Impact Assessment (IA)		
	Date: 01/01/2020		
	Stage: Options		
	Source of intervention: Domestic		
	Type of measure: Other		
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Summary: Intervention and Options	RPC Opinion: RPC Opinion Status
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Cost of Preferred (or more likely) Option (in 2019 prices)

Total Net Present Social Value	Business Net Present Value	Net cost to business per year	Business Impact Target Status
£-4912	£-4912	£-571	Non qualifying provision

The Wash and Norfolk Coast (Norfolk, Lincolnshire) supports three key fisheries being whelk, shrimp and cockles. The 2022 cockle stock survey indicates stocks cannot support a fishery this year without impacting the associated Marine Protected Areas and fisheries sustainability. As a consequence fishing effort is likely to increase in the other Wash-based fisheries. Increases in effort in these fisheries poses a high risk of impacting conservation objectives (in relation to shrimp fishing) and fisheries sustainability (in relation to the whelk fishery). Additional monitoring in the form of Vessel Monitoring Systems will reduce the risk to the fisheries by enhancing the deterrent in relation to non-compliance, enhance the detection of non-compliance and improve accuracy of fishing activity monitoring. National requirements for the same are anticipated to come into effect but not in a timeframe which will mitigate the risks identified above.

What are the policy objectives of the action or intervention and the intended effects?

The intended outcomes is that fishing activity within The Wash and North Norfolk Coast does not exceed levels which negatively impact on the conservation objectives of associated Marine Protected Areas and / or the sustainability of the shrimp and whelk fisheries.

The desired effect is that all fishing vessels fishing for, or carrying on board, shrimp or whelk within the Wash and N.Norfolk Coast must have a VMS device installed on the vessel by a certain time and that, once installed, the device must report to the MMO immediately. This will act as a deterrent to non-compliance in relation to measures already in place and provide best evidence for future management decisions within a timeframe which will mitigate the identified risks.

- Option 0 – ‘do nothing’: This option is considered to pose too high a risk to stock sustainability in the Wash and North Norfolk Coast whelk fisheries and to conservation objectives in relation to marine protected areas in the same area.
- Option 1 (**the preferred option**) – s.157 Marine and Coastal Access Act 2009 Byelaw (i.e. an emergency byelaw): considered necessary to mitigate risks in the required timescale.
- Option 2 – Voluntary measures: not considered sufficient to mitigate the identified risks
- Option 3 – s.155 Marine and Coastal Access Act 2009 (c.23) Byelaw (i.e. a conventional byelaw): not considered sufficient to mitigate the identified risks in an appropriate timescale

Will the policy be reviewed? It will be reviewed. **If applicable, set review date:** 06/2023

Is this measure likely to impact on international trade and investment?	No		
Are any of these organisations in scope?	MicroYes	Small Yes	Medium No LargeNo
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)	Traded: n/a		Non-traded: n/a

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible SELECT SIGNATORY: _____ Date: _____

Summary: Analysis & Evidence

Policy Option 1

Description:

FULL ECONOMIC ASSESSMENT

Price Base Year 2019	PV Base Year 2020	Time Period Years	Net Benefit (Present Value (PV)) (£)		
			Low: n/a	High: n/a	Best Estimate: -4912

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	n/a	n/a	n/a
High	n/a	n/a	n/a
Best Estimate	£0	19,320	189,933

Description and scale of key monetised costs by 'main affected groups'

The key monetised cost relates to the cost per report transmitted by VMS+ devices at an increased rate (once in every 3 minutes) for an estimated 23 vessels.

Other key non-monetised costs by 'main affected groups'

The cost of installation of IVMS devices is not monetised because grant funding is available for installation. VMS+ devices are already a mandated requirement and so no cost is associated. IVMS reports are the key non-monetised cost which are thought to range from £0 to £150 per annum.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	n/a	n/a	n/a
High	n/a	n/a	n/a
Best Estimate	n/a	n/a	n/a

Description and scale of key monetised benefits by 'main affected groups'

None identified

Other key non-monetised benefits by 'main affected groups'

The key non-monetised cost relate to the long term sustainability to whelk fisheries within The Wash and North Norfolk Coast and enabling a shrimp fishery to remain open where there is a risk to the conservation objectives in the associated Marine protected Area.

Key assumptions/sensitivities/risks

Discount rate (%)

The monetised costs are estimated on the basis that the requirement will have effect for two years. This is unlikely because the emergency byelaw will only have effect for 12 months (potentially 18 months if extended) and because it is anticipated that national measures will come into effect to require the same during that time.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £:			Score for Business Impact Target (qualifying provisions only) £m:
Costs: 571	Benefits:	Net: 571	non-qualifying provision

Evidence Base

Problem under consideration

A number of factors are adding pressure to the fishing industry, including increases to fuel costs and the cost of living which have the potential to increase fishing effort generally as industry seeks to make up the shortfall. In addition, the likely absence of a cockle fishery this year (2022) has increased the likelihood of additional fishing effort in both the whelk and shrimp fisheries of the Wash and North Norfolk Coast Marine Protected Area (the MPA).

Whelk fishery

Evidence indicates that whelk fishing mortality is too high¹. Additional measures are proposed for this fishery which should reduce the risk of over-fishing as a result of additional effort.

Ensuring compliance with whelk permit conditions will be crucial to preventing adverse impacts on stock sustainability. In particular, in relation to the limitation on the number of pots per vessel and the minimum landings size, both of which are only in effect inside the Eastern IFCA district.

IVMS and an increased reporting frequency for VMS+ devices will enable more effective detection of non-compliance and therefore an additional deterrent which will be crucial to reduce risk to an acceptable level to enable the fishery to continue.

Shrimp fishery

Annual shrimp fishing effort will be managed under the Shrimp Permit Byelaw 2018 when it comes into effect (which is expected imminently). A total number of trips per year will be ascribed to the shrimp fishery in The Wash and North Norfolk Coast each year to prevent impacting site integrity of the associated MPA². Effort is monitored, and management measures will be introduced to reduce effort including limiting the trips per vessel. Ultimately, the fishery will close before the total number of trips is exceeded.

Monitoring effort has primarily relied on shrimp catch return forms provided by industry. However, compliance with catch returns has been poor historically. This reduces the level of certainty we can assign to our monitoring of effort which increases risk and the likelihood of a more pre-cautionary approach being necessary.

A new catch return system was put into effect from 1 January 2022, which should aid detecting non-compliance where no returns are provided.

Effort in the shrimp fishery is anticipated to increase if there is no cockle fishery which increases the likelihood that restrictions will need to come into effect. IVMS and increased reporting frequency for VMS+ devices will enhance the accuracy of the data used to monitor the fishery and provide a deterrent to non-compliance with reporting and any effort management measures which may come into effect.

The case for an emergency byelaw

National legislation, which will require IVMS to be installed and reporting³, is not anticipated to be in effect in a timeframe which will accommodate managing the risks set out above. There is still uncertainty as to when the increased reporting frequency on VMS+ devices will come into effect.

¹ Paper and minutes for Action Item 11, 48th Eastern ICA meeting 8 June 2022.

² Minutes and papers for Action Item 12, 37th Eastern IFCA meeting 11 September 2019

³ <https://www.gov.uk/guidance/inshore-vessel-monitoring-i-vms-for-under-12m-fishing-vessels-registered-in-england>

The Shrimp Permit Byelaw 2018 will enable the Authority to implement an IVMS requirement ahead of the national measures, but this is not yet in effect and implementing the requirement as a permit condition will require additional process, with the effect being that it may not come into effect in a timescale which will effectively manage risk either, particularly with respect to the current Shrimp Permit Year (which ends 31 July 2022).

Therefore, consideration has been given to using a byelaw to implement IVMS and VMS+ requirements ahead of national measures coming into effect.

Subject to certain circumstances, the Authority can implement a byelaw without confirmation by the Secretary of State (an Emergency Byelaw) under s.157 of the Marine and Coastal Access Act 2009 (c.23). In effect, the Authority can make a byelaw immediately and which has immediate effect within the District.

The circumstances are that:

- a) The authority considers that there is an urgent need for the byelaw; and
- b) The need for the byelaw could not have reasonably been foreseen.

The current situation is considered to meet the requirements of both circumstances as follows;

Urgent need

Whelk fisheries in the Wash in particular are considered to be over-exploited and effective measures are required to prevent impacts on stock sustainability and industry viability.

Monitoring shrimp fishing effort is crucial to enable to continuation of the fishery within the MPA and ensuring the MPA's conservation objectives are not impacted. Current catch recording requirements are not considered sufficiently effective to mitigate the risk posed by anticipated increases in effort to the same extent as would have been the case in a 'normal' year (i.e. when a cockle fishery would have taken place). The current 'shrimp permit year' ends on 31 July 2022 and effort may need to be managed prior to then to prevent impacts.

The combination of factors driving additional effort in both fisheries also increases the risk associated with non-compliance at a time when compliance with measures will be crucial to prevent impacts on MPAs and stock sustainability.

Unforeseen

The anticipated increase in fishing effort is a result of a combination of low cockle stocks and the increases in cost of living and fuel prices. Neither of these could have reasonably been foreseen within the space of time that a conventional byelaw could have been used to address the associated risk.

Policy objective and intended effects

The overall policy objective is as follows:

Fishing activity within The Wash and North Norfolk Coast does not exceed levels which negatively impact on the conservation objectives of associated Marine Protected Area⁴ and / or the sustainability of the shrimp and whelk fisheries

The byelaw intends to have the following effects:

⁴ The associated MPA is the Wash and North Norfolk Coast Special Area of Conservation

With respect to carriage onboard a vessel of, and fishing for, shrimps or whelks within the 'Wash and North Norfolk Coast';

- To require all vessels to have an IVMS device fitted by a date determined by the vessel length as follows:
 - 8 to 11.99m, by 17 July 2022
 - 6 to 7.99m, by 22 August 2022
 - Less than 6m, by 19 December 2022
- To require all vessels to report information from an IVMS or VMS+ device at the 3-minute reporting rate:
 - Immediately if they have a device installed already; or
 - Immediately after a device is installed.
- To require the person in charge of the vessel to ensure the device is working correctly.
- The area constituting the 'Wash and North Norfolk Coast' is defined within the byelaw:
- Enables authorisation to be given if appropriate to fish without a functioning device.

It is intended to come into effect as soon as possible and only have effect up until the point that national legislation comes into effect which will have the same effect.

Rationale and evidence to justify the level of analysis used in the IA (proportionality approach)

This impact assessment should be considered an 'initial impact assessment' as referred to in defra Guidance to IFCA's on making byelaws⁵.

As a consequence of the lack of a cockle fishery in The Wash in 2022, there is a real possibility of significant increases in effort and fishing mortality in both shrimp and whelk fisheries in The Wash.

The evidence which sets out the risk in relation to the potential for the shrimp fishery to impact site integrity of associated Marine Protected Areas is well documented including through the associated Habitat regulations Assessment⁶.

With regards to the whelk fishery, the are identified from initial findings from a wider body of work to investigate the sustainability of the fishery within the whole district. These initial results are however in keeping with a similar assessment from within the Wash Economic Assessment undertaken by MarFishEco and which is to be published imminently. The information available is also corroborated by concerns raised by some within the fishing industry.

The rationale to justify the proposed emergency byelaw is considered sufficient given the level of risk posed to the fishery and the limited impact on fishery stakeholders relative to the potential for future impacts (longer term) for both fisheries and in the context that the measures are essentially an acceleration of national measures which are likely to be in place within the life span of this byelaw.

Description of options considered

Option 0 – 'do nothing'

The risk posed as a consequence of the lack of a cockle fishery requires mitigation to prevent impacts on stock sustainability in whelk fisheries and impacts on site integrity in relation to MPAs concurrent with shrimp fisheries.

⁵ <https://www.gov.uk/government/publications/ifca-byelaw-guidance>

⁶ <https://www.eastern-ifca.gov.uk/habitats-regulations-assessment-impacts-shrimp-fishery-wash-north-norfolk-coast-special-area-conservation/>

The 'do nothing' option is not considered appropriate because failure to implement protective measures could be constituted as failure to meet our main duties set out in the Marine and Coastal Access Act 2009. In addition, the potential longer-term impacts on fishery livelihoods is considered greater than the short-term impacts of the measures.

Option 1 (preferred option) – s.157 Marine and Coastal Access Act 2009 Byelaw (i.e. an emergency byelaw).

This is the preferred option because it mitigates the risks identified in a timeframe which will benefit the protection of site integrity within the MPA and the sustainability of the whelk fishery in The Wash and north Norfolk Coast.

Option 2 – voluntary measures

Voluntary measures are not considered likely to be effective in this case. This is primarily based on evidence which indicates non-compliance with catch return reports which are already mandated (partially in the shrimp fishery) which reduces the likelihood of voluntary compliance with similar measures, and the risk posed to both an MPA and stock sustainability.

Option 3 - s.155 Marine and Coastal Access Act 2009 (c.23) Byelaw (i.e. a conventional byelaw)

A conventional byelaw would not likely come into effect within a timeframe which would mitigate the identified risks.

Summary and preferred option with description of implementation plan

Option 1 will be implemented via an emergency byelaw (under s.157 of the Marine and Coastal Access Act 2009).

Once in effect, the byelaw will be advertised on the Eastern IFCA website and communicated directly to the persons to whom the byelaw applies (i.e. shrimp and whelk fishermen).

Monetised and non-monetised costs and benefits

Expected costs relate primarily to the cost of increased reporting rates by VMS+ devices. These devices are installed on fishing vessel with a length of 12m and such is a mandatory requirement. The devices currently report once in every 2 hours, but reporting rates will be required to increase to once in every 3 minutes for the purpose of meeting the policy objective.

The estimated cost per vessel is £144 per annum. An estimated 23 vessels within the whelk and shrimp fleets will be affected by the measures in this way.

The cost associated with installation of IVMS devices is mitigated by the national roll-out of the system which includes grant funding to cover this cost. Depending on the supplier, a cost may be associated with sending reports from the device which is understood to be in the region of £150 per year.

In both cases, the scale of impact as a result of these measures is limited because device installation and reporting at the higher rate (once in every 3 minutes) is anticipated to be mandated via national legislation in the near future (i.e. the impact is limited to the time between this measure coming into effect and the national legislation also coming into effect).

Costs estimated for the purpose of this initial assessment are based on the requirements having effect for two years, and as such are likely to be a significant over-estimate of the real costs to industry.

Benefits cannot be monetised but the whelk fishery in The Wash is a significant part of the local fisheries economy with an average annual first sale value of £862,349 since 2018 (£1.4m in 2019, £592,000 in 2018). Failure of this fishery as a result of over-fishing could significantly impact the local fishing interests and associated processing factors (two of which are based in King's Lynn) and which have wider economic value to the local economy.

With respect to the shrimp fishery, the proposals will reduce the risk of closure of the fishery on a pre-cautionary basis as a result of low confidence data (which is a reflection of poor compliance with mandated catch returns) and prevent impacts on site integrity of the associated MPA which itself supports the shrimp fishery.

Risks and assumptions

The key risk is in relation to the measures relate to the burden in relation to the cost for increased reporting of VMS+ units and the assumption that the associated impact is limited. A number of factors are impacting fishery livelihoods including the cost of living increases, fuel price increases and the lack of a cockle fishery this year. The impact of the cost is therefore likely to exceed that which would have been the case where these pressures were not present.

The key assumption is that the byelaw will enable effective management of the associated fisheries and effectively reduce the identified risks.

Impact on small and micro businesses

All businesses impacted by the byelaw are assumed as either 'small' or 'micro' businesses in accordance with the definition from guidance issued by the Regulatory Policy Committee⁷ (i.e. have less than 49 full-time equivalent employees).

There are thought to be two small businesses affected by the measures with the remainder of those effected being 'micro-businesses'.

As such, these business types cannot be exempted from the proposals. However, micro businesses are more likely to operate using vessels below 12m in length, and therefore will not be impacted by the key monetised impact (relating to the VMS+ increased reporting rate).

Wider impacts (consider the impacts of your proposals)

No wider impacts are identified beyond those described above.

A summary of the potential trade implications of measure

None identified.

Monitoring and Evaluation

The measures will be reviewed within 12 months of coming into effect and potentially extended for a maximum of 6 additional months. Given that the measures are in effect only the early adoption of what is anticipated to be a national requirement within the timeframe of the byelaw, it is unlikely that review will be necessary.

7