

EUROPEAN MARINE SITES: UK CONSERVATION AGENCY GUIDANCE

Cover Note by Annabelle Aish (JNCC)

This paper considers the Conservation (Natural Habitats, &c.) Regulations (GB: 1994 (as amended in 2007); NI: 1995) definition of European marine site (EMS) and examines UK Conservation Agencies' approaches to the provision of conservation objectives and management advice for these sites.

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A European marine site (EMS) as defined by the Conservation (Natural Habitats, &c.) Regulations (GB: 1994 (as amended in 2007); NI: 1995) is a 'European site which consists of, or so far as it consists of, marine areas'. These Regulations define a 'marine area' as any land covered (continuously or intermittently) by tidal waters or any part of the sea in or adjacent to Great Britain up to the seaward limit of territorial waters (see also DETR, 1998). The precise landward boundary is not defined in detail but should be considered the limit of intermittent cover by tides at the extreme top of the shore. An offshore European marine site (as defined by the Offshore Marine Conservation (Natural Habitats, &c.) Regulations: 2007) is a EMS 'located in the offshore marine area', i.e. '(a) any part of the seabed and subsoil situated in any area designated under section 1(7) of the Continental Shelf Act 1964; and (b) any part of the waters within British fishery limits (except the internal waters of, and the territorial sea adjacent to, the United Kingdom, the Channel Islands and the Isle of Man)';

The term European marine site therefore refers to those marine areas of both SACs and SPAs. These areas range from entirely subtidal to exclusively intertidal, and vary in size from large (such as Pen Llyn A'r Sarnau) to relatively small (such as Kenfig). Note that a EMS can be an entire SAC or SPA, or only part of one (the SAC/SPA may also include terrestrial areas).

'European marine site' is not a statutory site designation under the Habitats Directive. These areas are essentially management units for those parts of Natura 2000 sites which extend beyond the Site of Special Scientific Interest (SSSI) /Area of Special Scientific Interest (ASSI) designations¹. Unlike on land where most SACs and SPAs are also notified as SSSIs/ASSIs (under the Wildlife and Countryside Act 1981 and Nature Conservation and Amenity Lands (Northern Ireland) Order 1985) there was no existing legislative framework for implementing the Habitats Directive in the marine environment (DETR, 1998). Hence, the Habitats Regulations have a number of provisions specifically for responsibilities and measures in relation to European marine sites. In particular, Regulation 33 (GB) and Regulation 28 (NI) of the Habitats Regulations, and Regulation 18 of the Offshore Habitats Regulations requires that the appropriate nature conservation body communicate the conservation objectives for the site to the relevant/competent authorities. They must also advise the relevant/competent authorities of operations which may cause deterioration of natural habitats or the habitats of species, or disturbance of species, for which the European marine site has been designated.

In the intertidal zone, two types of legal system overlap: one governing terrestrial environments, the other governing marine environments (DETR, 1998). Most intertidal European marine sites will also be designated Sites of Special Scientific Interest (SSSIs) (GB) or Areas of Special Scientific Interest (ASSIs) (NI)². As such, the relevant authorities, landowners and occupiers and others will be notified by the appropriate conservation agency of the special interest of the SSSI or ASSI. They will also be provided with the conservation agency's views about management and a list of operations requiring the agency's consent. This information is considered to be equivalent to Regulation 33 advice (GB) and Regulation 28 advice (NI). To reiterate, the agencies' conservation objectives and advice on operations for entirely intertidal European marine sites can be delivered through the SSSI/ASSI mechanism thereby fulfilling obligations under Regulation 33 (GB) and Regulation 28 (NI) of the Habitats Regulations.

¹ Although there will overlap in the intertidal zone, where both land-based (SSSI) and marine (EMS) systems apply (DETR, 1998)

² SSSIs in England and Wales can be notified down to mean low water mark of ordinary tides. In Scotland and Northern Ireland, the SSSIs/ASSIs can be notified down to mean low water mark of spring tides.

In terms of management, all statutory bodies with jurisdiction in the marine area are charged with a duty to comply with the Habitats Directive. Intertidal EMS are often managed through underlying SSSI/ASSI designations³ as they lie above the low water mark and/or within local planning authority boundaries and can therefore be managed through the same protection systems as terrestrial European sites (DETR, 1998). Conversely, most subtidal Natura 2000 sites will be managed through measures under the Habitats Regulations or Offshore Habitats Regulations, and adjacent European marine sites may be grouped together for the purpose of management (e.g. the Essex Estuaries EMS). Establishing management schemes is optional for relevant and competent authorities under the Habitats Regulations and Offshore Habitats Regulations. The Regulations place a general duty on all statutory authorities exercising legislative powers to perform these in accordance with the Habitats Directive. A European marine site management scheme can be the best means to achieve this through providing a framework for management and promoting cooperative working with other relevant/competent authorities, especially on large or complex sites.

References

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³ Where the intertidal interest features are also listed SSSI/ASSI features