

## **PUBLIC CONSULTATION**

### **The deliberate disturbance of marine European Protected Species**

- Guidance for English and Welsh territorial waters and the UK offshore marine area -

Dear all,

We are writing to invite you and your organisation to participate in a public consultation on the guidance provided by the Joint Nature Conservation Committee (JNCC) relating to the offence of deliberate disturbance of marine European Protected Species (EPS). These are species listed on the Annex IV to the Habitats Directive and include all species of cetaceans and turtles occurring in European waters and the Atlantic sturgeon. This guidance applies to all UK waters apart from Scottish territorial waters.

Amendments to the Conservation (Natural Habitats, &c.) Regulations 1994 (i.e. the Habitats Regulations, HR) and the new Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007 (the Offshore Marine Regulations, OMR) came into force on 21 August 2007. Both Regulations have a revised definition of disturbance and the OMR extend the offence to areas of UK jurisdiction beyond 12 nm. It is now an offence (in regulation 39(1)(b) of both the HR and the OMR) to deliberately disturb an EPS in such a way as to be likely significantly to affect: a) the ability of any significant group of animals of that species to survive, breed, or rear or nurture their young; or b) the local distribution or abundance of that species.

The JNCC (with input from Natural England and Countryside Council for Wales) is required to provide advice on interpreting regulation 39(1)(b) from the point of view of nature conservation, by drafting guidance for those carrying out activities in the marine environment, to help determine when an offence might be committed, how it can be avoided and, if appropriate, when a wildlife licence might be required.

The public consultation on the marine species disturbance guidance will begin on 12 of March 2008 and will run for a 12 week period, until 4<sup>th</sup> June 2008. The Guidance documents are available to be consulted online at [www.jncc.gov.uk/page-4227](http://www.jncc.gov.uk/page-4227). The Guidance is divided into sections. The first few sections introduce the offence; provide some of the background to JNCC's advice on the interpretation of the law and present guidance on how to assess the likelihood of disturbing marine EPS. The next sections focus on species- and activity- specific guidance. Guidance is provided per species on what would constitute a 'significant group' and what species would be most sensitive to the effects of disturbance on their local distribution and abundance, in UK waters. The activities section provides information on known impacts, highlights active areas of research and makes links to existing good practice guidelines currently in practice (or under development) in UK waters. Good practice guidelines on seismic surveys, pile driving and explosive use are included as annexes.

We are inviting comments and feedback on all sections of the guidance. Feedback on the ease of understanding / use by the several different stakeholders would be particularly helpful, in addition to comments on the scientific evidence and rationale provided, and on the coverage of activities and evidence for significant disturbance of marine EPS. More specifically, we would welcome comments on:

- the interpretation of 'deliberate disturbance' for marine EPS
- the scientific evidence for significant disturbance of marine EPS

- the criteria for assessing the likelihood of committing an offence
- species-specific information
- the potential factors of disturbance and activities covered
- the good practice guidelines (annexes) including amendments to the existing JNCC Guidelines for minimising acoustic disturbance to marine mammals during seismic surveys

Please use the form provided (as attachment to this email) for your consultation feedback. The deadline for JNCC to receive feedback from consultees is 4 of June 2008.

Once the consultation period has closed, JNCC will compile and consider responses, and revise our guidance if appropriate. A report of the consultation will be made publicly available. Furthermore, any future reviews of the guidance are likely to be subject to public consultation. These future reviews will be carried out when necessary to make sure the guidance remains relevant and appropriate, as knowledge of the species and of the impacts of certain activities improves, as feedback on the efficiency of implementation, mitigation and enforcement arises, and as the results of surveillance and monitoring become available.

Attached is a list of those organisations consulted, if there is any other organisation you think should be included please let us know at the earliest opportunity and we will contact them. Alternatively, forward this email directly onto them but please let us know that you have done so, in order for us to keep track of all organisations consulted.

We can also provide all the necessary information to participate in this consultation on a CD - please send an email with 'Information request: 2008 Marine Species Disturbance Consultation' in the subject line to [Marine Species Disturbance Consultation](#), or contact Saville Gunn on 01224 655704.

Please contact us at [Marine Species Disturbance Consultation](#) if you require any more information, or alternatively contact Sonia Mendes or Saville Gunn on 01224 655704.

We look forward to receiving your input to the consultation.  
Yours sincerely,

Sonia Mendes  
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