

Ports and the WFD: UK and EU experiences Jan Brooke 13th December 07

EU Water Framework Directive:
some experiences from ports in the
UK and elsewhere in the EU

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Scope of presentation

- Hydromorphology and HMWBs
 - Setting GEP
 - Exemptions
 - New developments
 - Daughter Directive
- Participation in WFD implementation
 - WFD priorities for ports sector

Hydromorphology in the WFD

- Second biggest pressure after diffuse pollution
- CIS Policy and Technical Good Practice Guides
 - Focus hydropower, flood defence, navigation
- HMWB designation potentially important to ports
 - EU Navigation Task Group workshop on application of Article 4(3) tests in navigable water bodies
 - Agreement on 'alternative approach' to identifying GEP

Differences in application of Article 4(3)

- *Extent of impact* needed for HMWB designation
 - *Numbers/percentages* of navigation HMWBs
 - Differences in *size* of water bodies; status of port areas; associated *scale* issues
 - Differences in role of transport *policy* in determining 'significant effect on use'
- Differences in what constitutes an '*other means*'
- Potential difference in implications for *non-major* ports and navigable waterways

UK ports MEP-GEP project

- Application of 'alternative approach' to setting GEP and MEP in port water bodies
- Approach interprets GEP as 'the best you can do for ecology given the use'
- Workshop to promote ownership of process
 - Hydromorphological effects of dredging, disposal, structures, vessel movement
 - Range of measures
- Importance of cause-and-effect; site-specific influences

MEP-GEP mitigation measures

- Avoid need to dredge
- Prepare dredging/disposal strategy (quantity, timing)
- Reduce sediment resuspension
 - Disposal site selection
 - Modify channel
 - Modify vessel design

MEP-GEP mitigation measures (cont.)

- Vessel management (eg. speed limits, passage planning)
- Remove (if obsolete) or modify structure
 - Flow manipulation
 - Sediment management
- Indirect or off-site mitigation
 - Research

UK ports MEP-GEP project

- Method uses a series of questions
 - Is there a significant impact on a WFD quality element?
 - Is the measure appropriate given site-specific factors?
 - Is it already in place?
 - Would it have an adverse effect on use or the wider environment?
 - Would there be more than a slight ecological benefit?

'Already in place and adequate'

- Requirement of licence or consent, monitored and reviewed agreement, or other established best practice

'Adverse effect on use'

- Safety implications (eg. underkeel clearance, manoeuvrability), practicality of implementing measure, or effect on viability of use
 - Not disproportionate cost alone

Future application of GEP methodology

- Consensus of 'expert group' vs. port to complete proforma then review by regulator; consider number of water bodies, time available
- Transparency/auditability will be vital; essential to substantiate response
 - Also useful to indicate if likely disproportionate cost or 'only slight benefit'

Economics in the WFD

- Economic considerations are important in WFD decisions
- CIS prepared Wateco guidance documents
- UK Collaborative Research Programme on economics
- Guidance on cost-effectiveness analysis and information to inform disproportionate cost decisions
- Project to estimate total benefits of WFD implementation

CIS Exemptions Guidance

- WFD allows time extensions or less stringent targets if disproportionately costly or not technically feasible
- CIS guidance being developed on Articles 4(4) to 4(6)
 - Areas of ongoing discussion:
 - Exemptions 'integral part of process' vs. 'exceptional'?
 - Role of 'affordability' in determining disproportionate cost?

WFD implications for new development

- Article 4(7) provides for new development
- Modifications affecting water status must meet the following criteria
 - implement all practicable mitigation measures
 - confirm there are no alternative, economically viable and environmentally better means to deliver the project objectives
 - demonstrate overriding public interest or 'cost-benefit' equivalent
 - set out reasons for modification in RBMP

Article 4(7) CIS Guidance

- Important clarification of key provisions
- Deterioration refers to change between not within status class
 - 'Generic approach' to limit assessment burden on small developments
- Many temporary effects excluded from 4(7) requirements (eg. construction, dredging)
- Retrospective route for projects not in RBMP
- Article 4(7) does not require compensation

Practical implications for development

- Need proactive approach to minimise risk of increased costs and delays
 - Ensure proposal is WFD-compliant
- Understand WFD requirements: be clear about ecological targets; alternative means of meeting modification's objectives; their technical/economic viability; any reasons of overriding public interest or costs and benefits
 - Link into existing processes (eg. EIA)
 - Article 4(7) may already apply?

Priority substances daughter Directive

- Article 16 requires measures to reduce priority substances and phase out priority hazardous substances
 - Implemented via 'daughter Directive'
- Sets new environmental quality standards for water (sediment/biota standards currently optional)
- Concerns about science behind proposed standards, especially for TBT

Progress with daughter Directive

- European Council of Ministers agreed position
- Second reading at European Parliament - likely to promote additions to list of substances and tougher 'mixing zone' controls
 - Need for disproportionate cost exemption appears to be accepted
- Other main issues for ports are lack of definition of 'losses' (need to exclude re-suspended or re-located sediment-bound contaminants), and scientific robustness of EQSs/monitoring requirements

Port participation in WFD implementation

- EU level: WFD Navigation Task Group (includes ESPO, CEDA, PIANC: dialogue with EC; participates in CIS process)
- UK: Navigation Sector Group (includes UKMPG, BPA: bilateral discussions with Government/competent authorities)
 - River Basin Planning process (port representatives on most Liaison Panels)

WFD priorities for the ports sector?

- Priority substances daughter Directive (disproportionate cost exemption; define losses; also scientifically robust EQSs and monitoring)
 - Improved engagement in river basin planning process (identifying HMWBs; setting GEP targets; mitigation measures)
 - 'WFD-proof' development proposals
- Integrate sediment management into WFD