SCOTTISH NATURAL HERITAGE

Isle of May
Special Area of Conservation

Advice under Regulation 33(2)

of The Conservation (Natural Habitats, &c.) Regulations 1994 (as amended)

30 March 2006

About this Package:

Section 1 of this document provides a general introduction and Sections 2 and 3 fulfil Scottish Natural Heritage's duties under Regulation 33(2) of The Conservation (Natural Habitats, &c.) Regulations 1994 (Habitats Regulations) (as amended by The Conservation (Natural Habitats, &c.) Amendment (Scotland) Regulations 2004). This requires that SNH advises other relevant authorities as to the conservation objectives of the site (see Section 2) and any operations which may cause deterioration of natural habitats or the habitats of species, or disturbance of species, in so far as such disturbance could be significant, for which the site has been designated (see Section 3).

Annexes A and B provide supplementary, non-statutory information. Annex A gives information on the sensitivity and vulnerability of the qualifying interests: 'Grey seal *Halichoerus grypus*' and 'Reefs'. Annex B gives some indication as to the extent, distribution, structure, function and processes that affect the qualifying interests. It should be noted that this is indicative and not definitive, and as more site information is gathered these sections may be updated.

The Isle of May was designated by Scottish Ministers as a Special Area of Conservation (SAC) on 17th March 2005. This site is also referred to as a 'European site' (Regulation 10(1)). A 'European marine site' is a 'European site' which is wholly or in part marine (Regulation 2(1)) and is hereafter referred to as a marine SAC.

Although the following statutory information is for the benefit of relevant authorities (see below for explanation of their role), it can also be used by other competent authorities when assessing plans or projects.

1 Introduction

1.1 Background

The Conservation (Natural Habitats, &c.) Regulations 1994 (as amended by The Conservation (Natural Habitats, &c.) Amendment (Scotland) Regulations 2004), commonly referred to as the Habitats Regulations, transpose the EC Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Fauna and Flora (Habitats Directive) into domestic legislation. Regulation 33(2) gives Scottish Natural Heritage a statutory responsibility to advise other relevant authorities as to the conservation objectives for marine SACs in Scotland, and any operations which may cause deterioration of natural habitats or the habitats of species, or disturbance of species for which the site has been designated.

This document presents the Regulation 33 advice, plus supporting information, for the Isle of May SAC to assist relevant and competent authorities, local interest groups and individuals in considering management (including any management scheme) of the site. This advice, plus supporting information, will also help to determine the scope and nature of any "appropriate assessment", which the Habitats Directive requires to be undertaken for proposed plans and projects that are not connected to the conservation management of the site and are considered likely to have a significant effect. Where necessary Scottish Natural Heritage will also provide more detailed advice to relevant, and other competent, authorities to inform assessment of the implications of any such plans or projects.

1.2 Relevant and competent authorities

Within the context of a marine SAC, a relevant authority is a body or authority that has a function in relation to land or waters within or adjacent to the site (Regulation 5) and include: a nature conservation body; a local authority; water undertakers; a navigation authority; a harbour authority; a lighthouse authority; a river purification board (SEPA); a district salmon fishery board; and a local fisheries committee. All *relevant authorities* are *competent authorities*.

A competent authority is defined in Regulation 6 as "any Minister, government department, public or statutory undertaker, public body of any description or person holding a public office". In the context of a plan or project, the *competent authority* is the authority with the power or duty to determine whether or not the proposal can proceed.

1.3 The role of relevant authorities

The Habitats Regulations require relevant authorities to exercise their functions so as to secure compliance with the Habitats Directive. A management scheme may be drawn up for each marine SAC by the relevant authorities as described under Regulation 34. For marine SACs with overlapping interests, a single management scheme may be developed.

Where a management scheme is in place the relevant authorities must ensure that all plans for the area integrate with it. Such plans may include shoreline

management plans, Sites of Special Scientific Interest (SSSI) management plans, local Biodiversity Action Plans (BAPs) and sustainable development strategies for estuaries. This must occur to ensure that only a single management scheme is produced through which all relevant authorities exercise their duties under the Habitats Regulations.

1.4 Responsibilities under other conservation designations

Other designations within or adjacent to the Isle of May marine SAC are: Forth Island Special Protection Area (SPA); Firth of Forth Ramsar site; Firth of Forth SPA; Firth of Forth SSSI; Isle of May National Nature Reserve; Isle of May SSSI. The obligations of relevant, and other competent authorities and organisations under such designations and legislation are not affected by the advice contained in this document.

1.5 Conservation objectives

Section 2 of this document contains the conservation objectives for the Isle of May SAC, a site which consists entirely of marine qualifying interests. The conservation objectives have been developed to ensure that the obligations of the Habitats Directive are met.

1.6 Advice as to operations

The operations, set out in Section 3, are those which SNH advise may cause deterioration of natural habitats or the habitats of species, or disturbance of species, for which the site has been designated. This does not necessarily mean that the operations are *presently* ongoing or, if they are, that they are at levels incompatible with the conservation objectives.

1.7 Plans and projects

The Habitats Regulations require that, where an authority concludes that a development proposal is unconnected with the nature conservation management of a Natura site and is likely to have a significant effect on that site, it must undertake an appropriate assessment of the implications for the qualifying interests for which the area has been designated.

1.8 Review of Consents

Competent authorities are required by the Habitats Regulations to undertake a review of all consents and permissions for activities affecting the site as soon as reasonably practicable after it becomes a European site. This will have implications for discharge and other consents, which will need to be reviewed in the light of the conservation objectives.

2 Statutory advice given by SNH under Regulation 33(2) Conservation Objectives

2.1 Introduction

This section provides conservation objectives, which have been developed by SNH in agreement with the Scottish Executive and are to be provided to the relevant authorities in fulfilment of the requirements under Regulation 33(2) of The Conservation (Natural Habitats, &c.) Regulations 1994 (as amended by The Conservation (Natural Habitats, &c.) Amendment (Scotland) Regulations 2004).

The conservation objectives ensure that the obligations of the Habitats Directive are met; that is, there should not be deterioration or significant disturbance of the qualifying interests. This will also ensure that the integrity of the site is maintained and that it makes a full contribution to achieving favourable conservation status for its qualifying interests.

The Isle of May marine SAC has been designated for the species 'Grey seal *Halichoerus grypus*', which is listed on Annex II of the Habitats Directive, as well as for the Annex I habitat 'Reefs'.

The Isle of May SAC consists entirely of marine qualifying interests.

The conservation objectives for the Isle of May marine SAC are as follows:

To avoid deterioration of the habitats of qualifying species (**Grey seal *Halichoerus grypus***) or significant disturbance to the qualifying species, thus ensuring that the integrity of the site is maintained and the site makes an appropriate contribution to achieving favourable conservation status for the qualifying interests.
To ensure for the qualifying species that the following are maintained in the long term:
• Population of the species as a viable component of the site
• Distribution of the species within site
• Distribution and extent of habitats supporting the species
• Structure, function and supporting processes of habitats supporting the species
• No significant disturbance of the species

To avoid deterioration of the qualifying habitat (**Reefs**) thus ensuring that the integrity of the site is maintained and the site makes an appropriate contribution to achieving favourable conservation status for the qualifying interests.
To ensure for the qualifying habitat that the following are maintained in the long term:
• Extent of the habitat on site
• Distribution of the habitat within site
• Structure and function of the habitat
• Processes supporting the habitat
• Distribution of typical species of the habitat
• Viability of typical species as components of the habitat
• No significant disturbance of typical species of the habitat

3 Statutory advice given by SNH under Regulation 33(2) Operations

The following advice as to operations to be considered by relevant authorities is provided by SNH with respect to the Isle of May marine SAC in fulfilment of the requirements under Regulation 33(2)(b) of The Conservation (Natural Habitats, &c.) Regulations 1994 (as amended by The Conservation (Natural Habitats, &c.) Amendment (Scotland) Regulations 2004). The advice identifies those operations, either on or affecting the SAC, which may cause deterioration of the marine natural habitats or the habitats of species, or disturbance of species, for which the site has been designated. These include operations that may not be currently affecting the Isle of May marine SAC.

Operations (in alphabetical order)

Coastal Development
Lighthouse and building maintenance

Discharges / Waste Disposal
Discharge of sewage

Fishing
Static gear: Creel / Pot fishing

Marine Traffic
Boat maintenance and antifoulant use
Commercial vessels

Recreational Activities
Boat anchorages
Boat moorings
Charter / recreational vessels
Other recreational activities
Scuba diving
Sea kayaking

Scientific Research
Scientific research

Annex A

Non-statutory advice given by SNH
Sensitivity and Vulnerability of the Isle of May SAC 'Grey seal *Halichoerus grypus*' and 'Reefs' to activities listed in Section 3

The comments below are general and should not be considered to be definitive. They are made without prejudice to any comments SNH may provide or any assessment that may be required for specific proposals to be considered by a relevant authority. The level of any impact will depend on the location and intensity of the relevant activity. This advice is provided to assist and focus the relevant authorities in their consideration of the management of these operations.

NB. References to deterioration in the comments section below should be taken to mean *deterioration of all the qualifying interests*. If specific qualifying interests are particularly at risk they may be referred to individually where relevant.

Operations	Comments
Coastal Development	
Lighthouse and building maintenance	**Grey seal:** The use of vessels or helicopter for the servicing of the lighthouse and other buildings on the Isle of May has the potential to cause disturbance to seals, particularly during the breeding and pupping (late September to late December) and moulting (Jan / Feb) seasons. This would be through injury, mortality, noise disturbance and human presence.
Discharges / Waster Disposal	
Discharge of sewage	**Reef:** Sewage effluent (whether treated or untreated) has the potential to cause deterioration of reef habitats and communities. This would be through the effects of pollution and / or nutrient enrichment, which may cause subsequent changes in community structure.
Fishing	
Static gear: Creel / Pot fishing	**Grey seal:** Creel / pot fishing has the potential to impact seals as they have been known to attempt to rob creels of their bait, consequently become entangled and subsequently drown.
	Reef: The use of creels and / or pots in a localised area has the potential to cause deterioration of qualifying reef habitats and communities through direct contact, particularly during their deployment and / or recovery.
Marine Traffic	
Boat maintenance and antifoulant use	**Reef:** Most antifoulant products are designed to kill or discourage naturally occurring organisms and, as such, cause damage to the water environment if used carelessly. Under such circumstances use of antifoulant (e.g. for maintenance of the jetty) has the potential to cause deterioration of reef habitats and communities within this site.

Marine Traffic contd.		
Commercial vessels		**Grey seal:** Commercial ferry services have the potential to cause significant disturbance to seals if these vessels pass and / or moor close to the seal haul out areas, particularly during the breeding, pupping and moulting seasons. Oil spills have the potential to cause significant damage to seal haul outs. Seals generally leave an area in which oil is spilled but a small number of individuals may suffer from respiratory problems and die as a result of the spillage of a large amount of oil. Oil tankers do frequently pass through the coastal waters of the Firth of Forth but there is always a risk that a fishing boat or container ship may run aground in the area spilling diesel and fuel oil. Local authority and harbour oil spill contingency plans should take into account the qualifying interests of the Isle of May and the importance of the marine SAC, particularly during the seal's breeding, pupping and moulting seasons, should such incidents occur.
		Reef: The pumping of bilges, discharge of ballast, accidental grounding, or accidental oil (or other chemical) spillage from commercial vessels could occur within or close to this SAC. Such incidents have the potential to cause deterioration of reef habitats and communities through direct and / or indirect impacts. Local authority emergency plans and oil spill contingency plans should take into account specific qualifying interests and recognise the importance of marine SACs should such incidents occur.
Recreational Activities		
Boat anchorages		**Reef:** Anchors and continual scouring by riser chains have the potential to cause deterioration of reef habitats and communities through direct contact with the qualifying interests.
Boat moorings		**Reef:** Moorings and continual scouring by riser chains have the potential to cause deterioration of reef habitats and communities through direct contact with the qualifying interests.
Charter / recreational vessels		**Grey seal:** Charter boats, especially on trips specifically designed to visit seal colonies, have the potential to disturb seals (particularly during the sensitive breeding, pupping and moulting periods) if appropriate guidelines for watching seals are not adhered to. Charter and recreational vessels may leave visitors to explore offshore islands or more remote areas that are close to seal haul out sites. Such human presence also has the potential to cause disturbance to seals if guidelines are not adhered to.
		Reef: Boats have the potential to cause deterioration of reef habitats and communities through repeated launching and recovery in specific areas, accidental grounding, and accidental fuel spillages.
Other recreational activities		**Grey seal:** Land-based visitors have the potential to cause significant disturbance to seals, and deterioration to their associated habitats. This is particularly so if visits are unmanaged, in large groups or with dogs, especially during the breeding, pupping or moulting seasons.
Scuba diving		**Grey seal:** Recreational diving in specific areas has the potential to cause significant disturbance to seals, particularly during the breeding, pupping and moulting seasons. The use of RHIBs and hard-boats associated with these activities also have the potential to cause disturbance to seals.
		Reef: Recreational diving in specific areas has the potential to cause deterioration of reef habitats and communities, in particular to erect and fragile species.

Recreational Activities contd.		
Sea kayaking		**Grey seal:** Sea kayaking and other activities such as canoeing and rowing have the potential to cause significant disturbance to seals, particularly during the breeding, pupping and moulting seasons. This disturbance will mainly be caused by seals being suddenly alarmed by the proximity of a quiet, approaching boat.
Scientific Research		
Scientific research		**Grey seal:** Research activities have the potential to cause significant disturbance to seals, particularly during the breeding, pupping and moulting seasons.
		Reef: Research activities have the potential to cause deterioration of reef habitats and communities through direct alteration, removal or manipulation of this qualifying interests and its associated species.

Annex B

Non-statutory Advice given by SNH
Site account

Site description

The Isle of May lies at the entrance to the Firth of Forth on the east coast of Scotland. The island is tilted in an easterly direction, gradually sloping down to sea level from the vertical cliffs on the western coast. The cliffs reach a height of 60 m and have numerous arches, stacks and caves. Fault lines have divided the island into a number of islets separated by intertidal channels – North Ness, Rona and the main island. The coastline is predominantly rocky with bedrock extending sublittorally onto boulder slopes and cobble and shell gravel plains. Conditions of wave exposure range from sheltered to exposed. Occasional pockets of sediment are restricted to the bays. The island forms a natural sanctuary for seabirds and for an internationally important breeding colony of grey seals, *Halichoerus grypus*.

Qualifying marine interests

Annex I Habitat: Reefs

The Isle of May is noted for the high quality of bedrock reefs that fringe 90% of its coastline. The May's reefs are very variable, encompassing a range of conditions from exposed on the open coast to sheltered within the inlets, supporting a wide variety of communities. They are generally sublittoral but may extend into the intertidal zone, where they are exposed to the air at low tide.

The shores are characterised by fucoid algae and barnacle mosaics covering most of the upper and mid-shore zone although mussels and barnacles dominate the steep and vertical rock of the west coast. The upper shore of the cobble shores in the south-west of the island is barren whilst the red alga *Porphyra umbilicalis* and the green alga *Enteromorpha intestinalis*, grow in the mid shore. Small coralline rock pools are common in the mid- and upper-shore around the coastline and there are some larger pools containing fucoids and laminarians. The near-shore habitats, particularly shallow bedrock reefs, are important foraging grounds for the seals.

The sublittoral fringe, from about 3m depth, is dominated by kelp forests with *Saccorhiza polyschides* reaching down to 9m on the west and 13m on the east coast. Below this, the zone down to a depth of 14m is generally dominated by encrusting coralline algae, the common sea urchin *Echinus esculentus,* calcareous tube-worms *Pomatoceros triqueter* and the brittlestar *Ophiothrix fragilis*. Dead man's fingers *Alcyonium digitatum* extends deeper dominating the boulders down to a depth of 16m on the west coast and 18m on the east. Below the depth of 16m on the west coast, the boulders are generally replaced by cobble and gravel which support a hydroid and bryozoan community dominated by *Abietinaria abietina* and *Nemertesia antennina.* On the north, east and south coasts, the boulder zone extends to

at least 26m depth and is dominated by the coralline algae, *A. abietina* and the brittlestars *Ophiocomina nigra* and *O. fragilis* which form dense blankets.

Annex II Species: Grey seal *Halichoerus grypus*

The Isle of May seal population is well studied and demonstrates a loyal and growing breeding colony of grey seals. Around 1,950 grey seal pups are produced at the site each year which equates to a total population of approximately 5,900 animals, representing around 5% of the UK and 4.7% of the EU populations of this species. Such large colonies are important in maintaining overall population size and are significant as sources of emigration to smaller or newly established groups.

The data above were used for site evaluation purposes. Since then the Seal Mammal Research Unit (SMRU) has carried out further surveys, which show that the population is stable.

The seals are wide ranging for around 9 months of the year, returning to the breeding site to pup and mate between late September and mid December. There is a general drift back to the breeding site from late summer and large pre-breeding assemblies form at the site. Breeding animals tend to return to the same site each year, even to within metres from where they bred the year before. Cows produce their pups on the grassy tops, or on sheltered shores above the high water mark, within a day or two of coming ashore. Females give birth as far as possible above the high tide mark, thereby reducing the likelihood that helpless pups will be swept out to sea in a storm.

The seals disperse away from the site once the breeding season is over, presumably to feeding areas, and some studies have shown that they spend more than 80% of their time within a 50 km radius of their most favoured haul-out sites. The shallow sandbank and reef habitats at the site are of considerable importance in maintaining a food supply for the seals. They are known to have a varied diet comprising a wide range of fish species, octopus, squid and crustaceans.