Commission Delegated Regulation (EU) 2017/1180 of 24 February 2017 amending Delegated Regulation (EU) 2017/118 establishing fisheries conservation measures for the protection of the marine environment in the North Sea

COMMISSION DELEGATED REGULATION (EU) 2017/1180

of 24 February 2017

amending Delegated Regulation (EU) 2017/118 establishing fisheries conservation measures for the protection of the marine environment in the North Sea

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC[(1)], and in particular Article 11 thereof,

Whereas:

(1) Pursuant to Article 11 of Regulation (EU) No 1380/2013, Member States are empowered to adopt fisheries conservation measures in their waters that are necessary for the purpose of complying with their obligations under Union environmental legislation, including Article 6 of Council Directive 92/43/EEC[(2)] and Article 13(4) of Directive 2008/56/EC of the European Parliament and of the Council[(3)].

(2) Article 6 of Directive 92/43/EEC requires Member States to establish the necessary conservation measures for Special Areas of Conservation that correspond to the ecological requirements of those natural habitat types and species present on the sites as listed in the Annexes to that Directive. It also requires Member States to take appropriate steps to avoid, in the special areas of conservation, the deterioration of natural habitats and the habitats of species as well as significant disturbance of the species for which the areas have been designated.

(3) Pursuant to Article 13(4) of Directive 2008/56/EC Member States are to adopt programmes of measures, including spatial protection measures that contribute to coherent and representative networks of marine protected areas, and adequately cover the diversity of the constituent ecosystems, such as special areas of conservation pursuant to the Habitats Directive, special protection areas pursuant to the Birds Directive[(4)], and marine protected areas as agreed by the Community or Member States concerned in the framework of international or regional agreements to which they are parties.

(4) Where a Member State considers that measures need to be adopted for the purpose of complying with its obligations under Union environmental legislation and other Member States have a direct management interest in the fishery to be affected by such

Changes to legislation: *There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2017/1180. (See end of Document for details)*

measures, the Commission is empowered to adopt such measures by means of delegated acts upon a joint recommendation submitted by the interested Member States.

(5) On 5 September 2016, the Commission adopted Delegated Regulation (EU) 2017/118[(5)] establishing fisheries conservation measures for the protection of the marine environment in certain areas of the North Sea.

(6) In accordance with Article 11(3) of Regulation (EU) No 1380/2013, Denmark as an initiating Member State has provided the Commission and Member States having direct management interest with relevant information on the additional measures required, including their rationale, scientific evidence in support and details on their practical implementation and enforcement.

(7) On 16 November 2016, after having consulted the North Sea Advisory Council, Denmark, Germany and Sweden submitted to the Commission a joint recommendation for fisheries conservation measures to protect reef structures in four additional Danish Natura 2000 sites in the Kattegat. Those measures comprise the prohibition of fishing activities with mobile bottom contacting gear in reef zones (under habitat type 1170) and the prohibition of all fishing activities in bubbling reef zones (under habitat type 1180).

(8) Bottom fishing activity with mobile bottom contacting gear has a negative impact on reef habitats, as such activity affects both the reef structures and the biodiversity found at the reefs. Therefore the prohibition to fish with such gears in the relevant Danish reef areas, as set out in the joint recommendation, should be included in Delegated Regulation (EU) 2017/118. Bubbling reefs are especially fragile structures and any physical impact is a threat to their conservation status. Accordingly, the prohibition of all fishing activities in the relevant bubbling reef areas, as set out in the joint recommendation, should also be included in that Regulation.

(9) The Scientific, Technical and Economic Committee for Fisheries (STECF[(6)]) states in its scientific advice of 6 December 2016 that the proposed conservation objectives within the special areas referred to in the joint recommendation cannot be fully achieved without appropriate measures to prevent fishing activity in the areas.

(10) STECF identified some issues regarding the control and enforcement of the conservation measures in the sites concerned. Member States are required to adopt appropriate measures, allocate adequate resources and set up the structures necessary for ensuring control, inspection and enforcement of activities carried out within the scope of the common fisheries policy (CFP). This may include measures such as the requirement of submitting VMS positions with increased frequency by all vessels concerned or identifying the areas as high risk in the national control system based on risk management, addressing the concerns of STECF.

(11) Denmark provided detailed information on the measures ensuring monitoring and control taking account the current level of fishing activity in these areas. These control measures involve sea going fisheries inspections and constant monitoring by the Danish fisheries monitoring centre through the risk based management system. Automatic identification system is also used to supplement VMS data.

(12) It is important to ensure the assessment of the measures introduced by this Regulation, in particular as regards the control of compliance with fishing prohibitions. Therefore a further assessment should be performed by Denmark in order to ensure the compliance with prohibited fisheries at latest 18 months after this Regulation enters into force.

(13) Delegated Regulation (EU) 2017/118 should be amended accordingly.

(14) The fisheries conservation measures established by this Regulation are without prejudice of any other existing or future management measures aiming at the conservation of the sites concerned, including fisheries conservation measures,

HAS ADOPTED THIS REGULATION:

Article 1

Amendment of Delegated Regulation (EU) 2017/118

Delegated Regulation (EU) 2017/118 is amended as follows:

(1) Article 6 is replaced by the following:

Article 6

Review

1 By 30 June 2017, Member States concerned shall assess the implementation of the measures set out in Articles 3 and 4 in:
- a areas 1(1), 1(2) and 1(3), as defined in Annex I; and
- b areas 2(1) to 2(2), as defined in Annex II.

2 By 31 July 2017 Member States concerned shall submit to the Commission a summary report on the assessment referred to in paragraph 1.

3 By 31 October 2018, Member States concerned shall assess the implementation of the measures set out in Articles 3 and 4 in:
- a areas 1(4) to 1(7), as defined in Annex I; and
- b areas 2(22), 2(23) and 2(24), as defined Annex II.

4 By 30 November 2018, Member States concerned shall submit to the Commission a summary report on the assessment referred to in paragraph 3.;

(2) Annex I is replaced by the text in Annex I to this Regulation;

(3) Annex II is replaced by the text in Annex II to this Regulation;

(4) Annex III is replaced by the text in Annex III to this Regulation.

***Changes to legislation:** There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2017/1180. (See end of Document for details)*

Article 2

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 24 February 2017.

For the Commission

The President

Jean-Claude JUNCKER

***Changes to legislation:** There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2017/1180. (See end of Document for details)*

ANNEX I

ANNEX I

Coordinates of Areas 1

Area 1(1): Habitat No 166, Natura 2000 site No 191, (EU code: DK00VA248) Herthas Flak

Point	Latitude N	Longitude E
1S	57°39.422′	10°49.118′
2S	57°39.508′	10°49.602′
3S	57°39.476′	10°49.672′
4S	57°39.680′	10°50.132′
5S	57°39.312′	10°50.813′
6S	57°39.301′	10°51.290′
7S	57°38.793′	10°52.365′
8S	57°38.334′	10°53.201′
9S	57°38.150′	10°52.931′
10S	57°38.253′	10°52.640′
11S	57°37.897′	10°51.936′
12S	57°38.284′	10°51.115′
13S	57°38.253′	10°50.952′
14S	57°38.631′	10°50.129′
15S	57°39.142′	10°49.201′
16S	57°39.301′	10°49.052′
17S	57°39.422′	10°49.118′

Area 1(2): Habitat No 168, Natura 2000 site No 192, (EU code: DK00VA249) Læsø Trindel & Tønneberg Banke

Point	Latitude N	Longitude E
1S	57°25.045′	11°6.757′
2S	57°26.362′	11°6.858′
3S	57°27.224′	11°9.239′
4S	57°26.934′	11°10.026′
5S	57°27.611′	11°10.938′
6S	57°28.053′	11°11.000′
7S	57°28.184′	11°11.547′