


The Big Screen Experience: The regulator's view of protecting European eels

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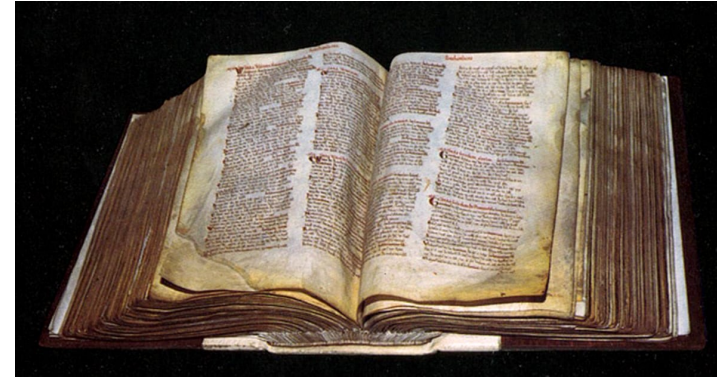
IFM Fish Impingement and Entrainment Conference, Liverpool

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- European eel and legal protection
 - The Eels (England & Wales) Regulations, 2009
 - Issues and challenges in regulating
 - Resolving the issues and delivering benefits for eel

Why do we need to protect European eels?



Young eels: Ros Wright



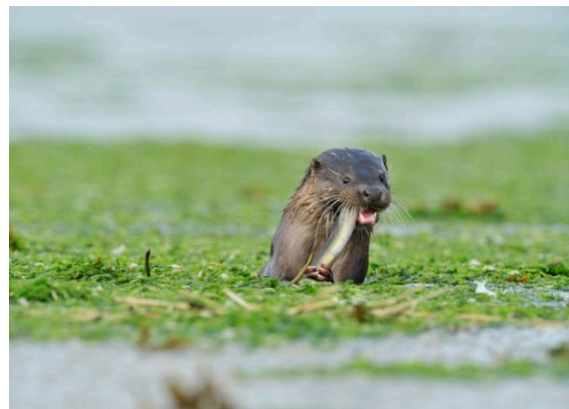
The Domesday Book



Ely in Cambridgeshire



Heron: Scottish Wildlife Trust

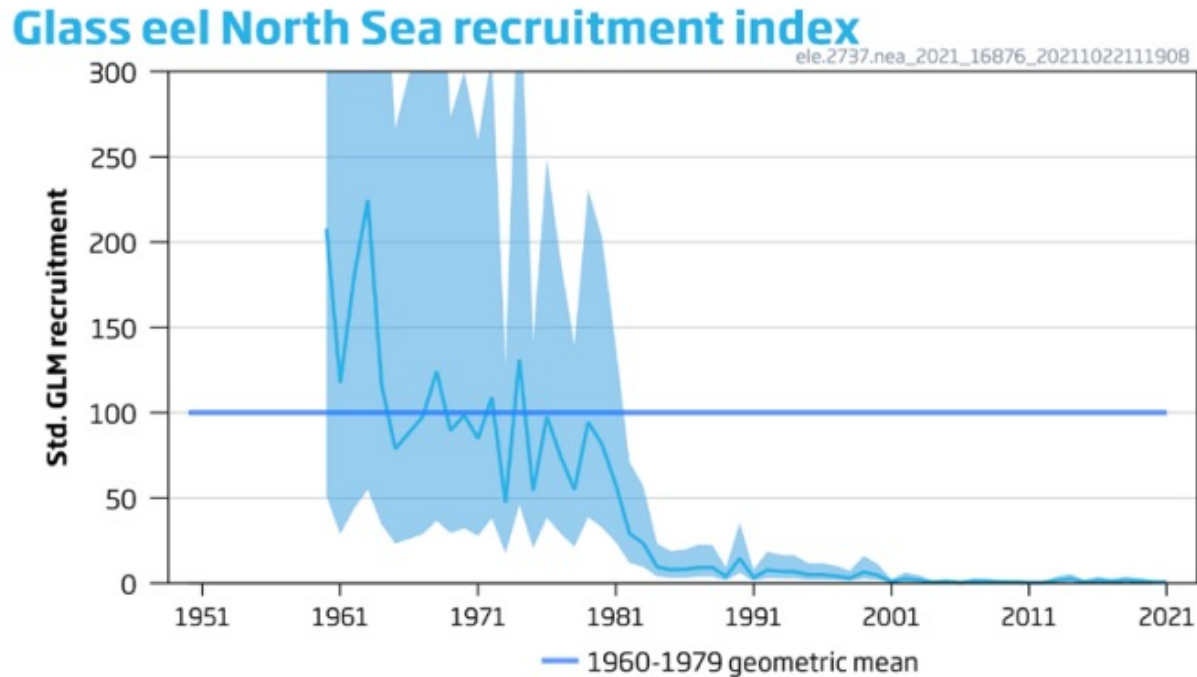


Otter: BBC Wildlife



Bittern: Natural History Museum

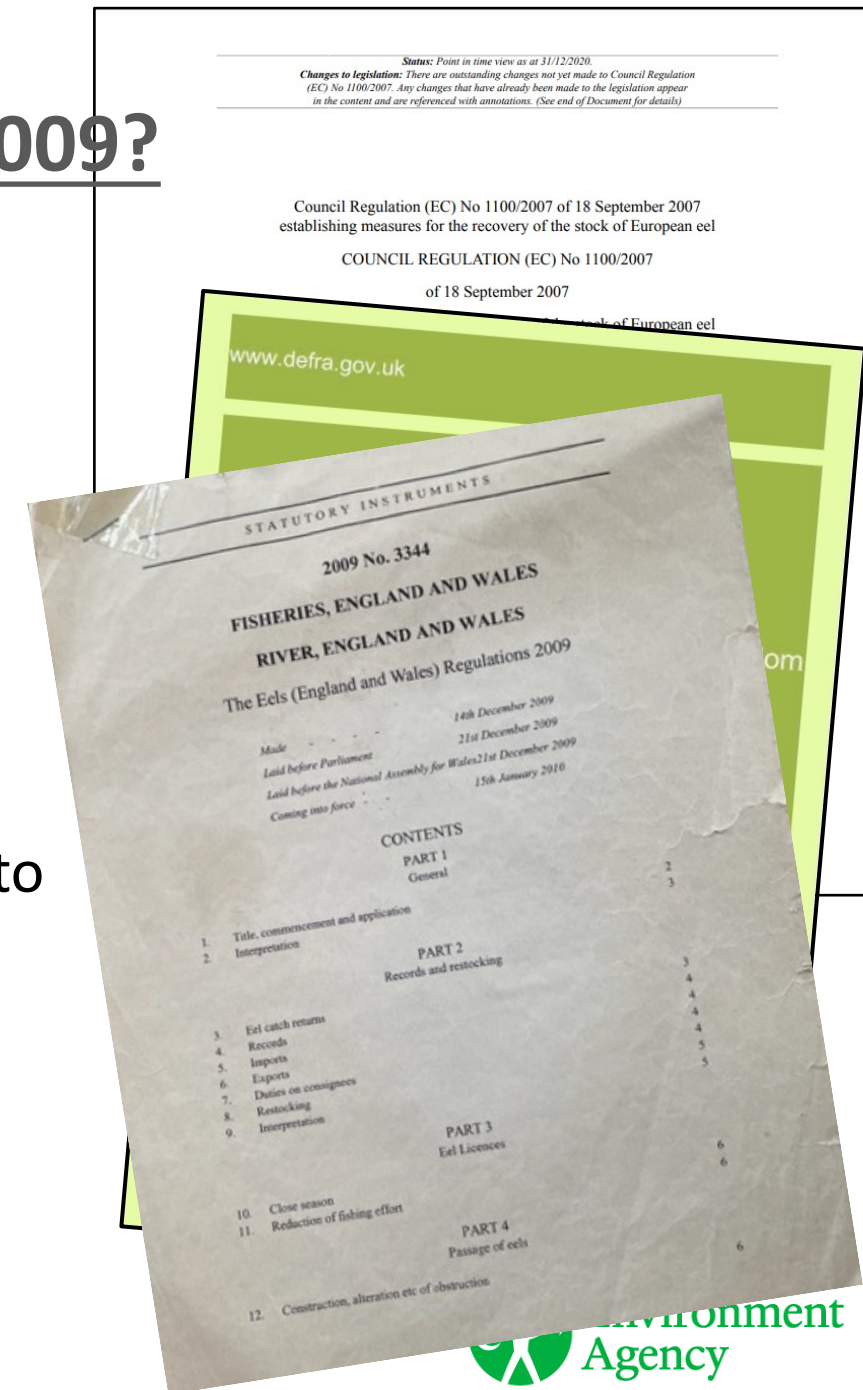
Why do we need to protect European eels?



- 2007 - European Eel Regulation (EC 1100/2007) – **Eel Management Plans (EMPs)**.
- 2008 – IUCN – red list categorises European eel as **critically endangered**.
- 2009 – CITES **trade restrictions** – no movement of European eel outside the EU.

The Eels (England and Wales) Regulations 2009?

- **9 EMPs** in England – restore access to habitat & ensure safe passage for eel
- **UK legislation – The Eels Regulations** - give Environment Agency powers to implement Eel Management Plans.
- The Eels Regulations (Part 4) – powers in relation to securing safe passage for eels at obstructions and at **diversion structures** (intakes and outfalls).



The Eels Regulations, Part 4, in relation to eel screens



Eel Screens

Regulation 17

(1) This regulation applies to-

- (a) Any **diversion structure** capable of abstracting **at least 20 cubic metres of water** through any one point in any **24 hour** period; and
- (b) Any diversion structure returning water to a channel, bed or sea.

(4) On or after 1st January 2015, a responsible person **must ensure an eel screen is placed in a diversion structure.**

(5) The Agency **may, by service of a notice-**

- (a) **Exempt** the responsible person from the requirement in paragraph (4); or
- (b) Require the responsible person, at their own cost, to alter the dimensions (including mesh size) and the placement of any screen placed under paragraph (4) to those specified in the notice.

Some common responses to the Regulations

How much....for eels.....are you kidding me?!

A fine screen won't work – it'll just block up!

My intake doesn't kill eels! Where's your evidence?

There aren't any eels here!

I can't draw enough water through a fine screen!

I can't afford that!

Fine screens cost too much to maintain!

It's disproportionate!
They're not worth it.

Robust and powerful legislation??

- As of 1st January 2015, owners or operators of structures capable of abstracting at least 20m³ per day **must install an eel screen**, at their own cost, **unless exempted by notice** by the Environment Agency.



Issues & challenges

- Scale of implementation
- Ability to pay
- Regulatory constraints
- Data and evidence
- The legislation
- Technical solutions



Scale of implementation

- Multiple industrial sectors.
- Thousands of structures in England.
- Hundreds of structures for some operators.
- Sector-specific guidance?



Ability to pay



Regulatory constraints

- Government ensures there are checks on how we regulate:
 - **Regulator's Code**, 2014, “any [regulatory] action taken is proportionate”
 - **Growth Duty** S.108 of Deregulation Act, 2015 – supporting compliance and growth
 - **S.39 Environment Act**, 1995 - “have regard to costs and benefits”



Data and evidence

- Gaps in the data
- Evidence is not site-specific
- Evidence on small eels
- Won't a fine screen block up?
- Level of impact



Wording of the legislation

Regulation 14 (1) – “This regulation applies where the Agency determines that the **passage of eels is impeded** or likely to be impeded....”

Regulation 14 (2) – “The Agency **may, by service of a notice, require....**”

Regulation 17(4) – “.....a responsible person must ensure **an eel screen** is placed in a diversion structure.”

Regulation 17(5) – “The Agency **may, by service of a notice – exempt** the responsible person....”

A close-up photograph of a wooden gavel resting on a white document. The document has the words "LEGAL NOTICE" printed in bold, black, uppercase letters. The gavel is made of dark wood and is positioned diagonally across the top of the page.

LEGAL NOTICE

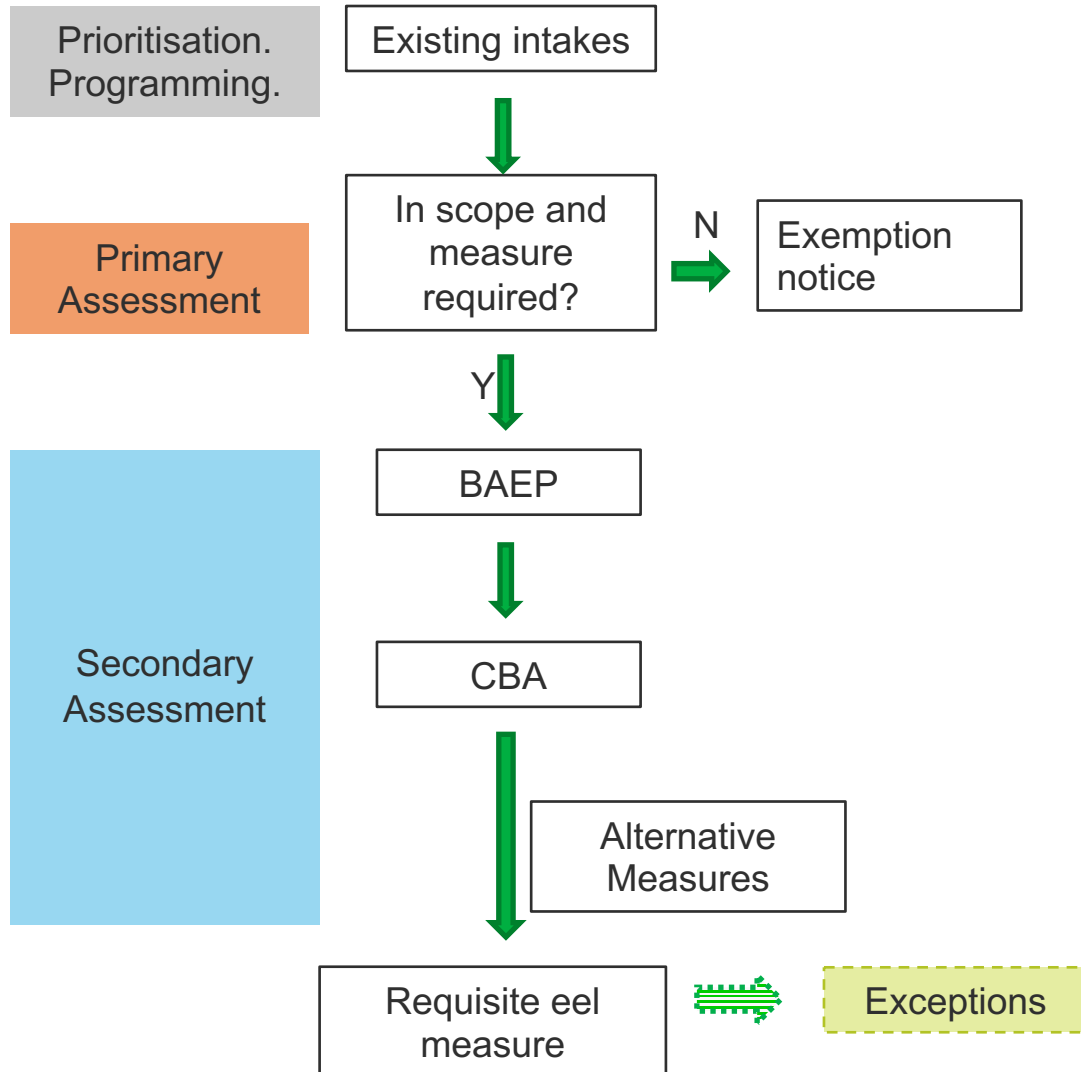
Technical solutions

- Availability of eel screens for different settings
- “Unproven” technology - lack of trust/lack of experience
- Misconceptions about design and functionality



How we addressed the issues & challenges

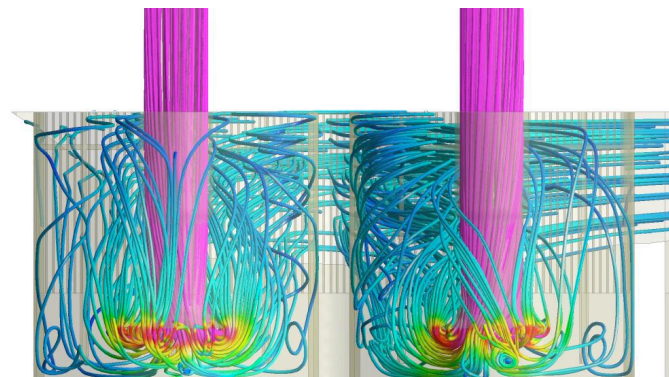
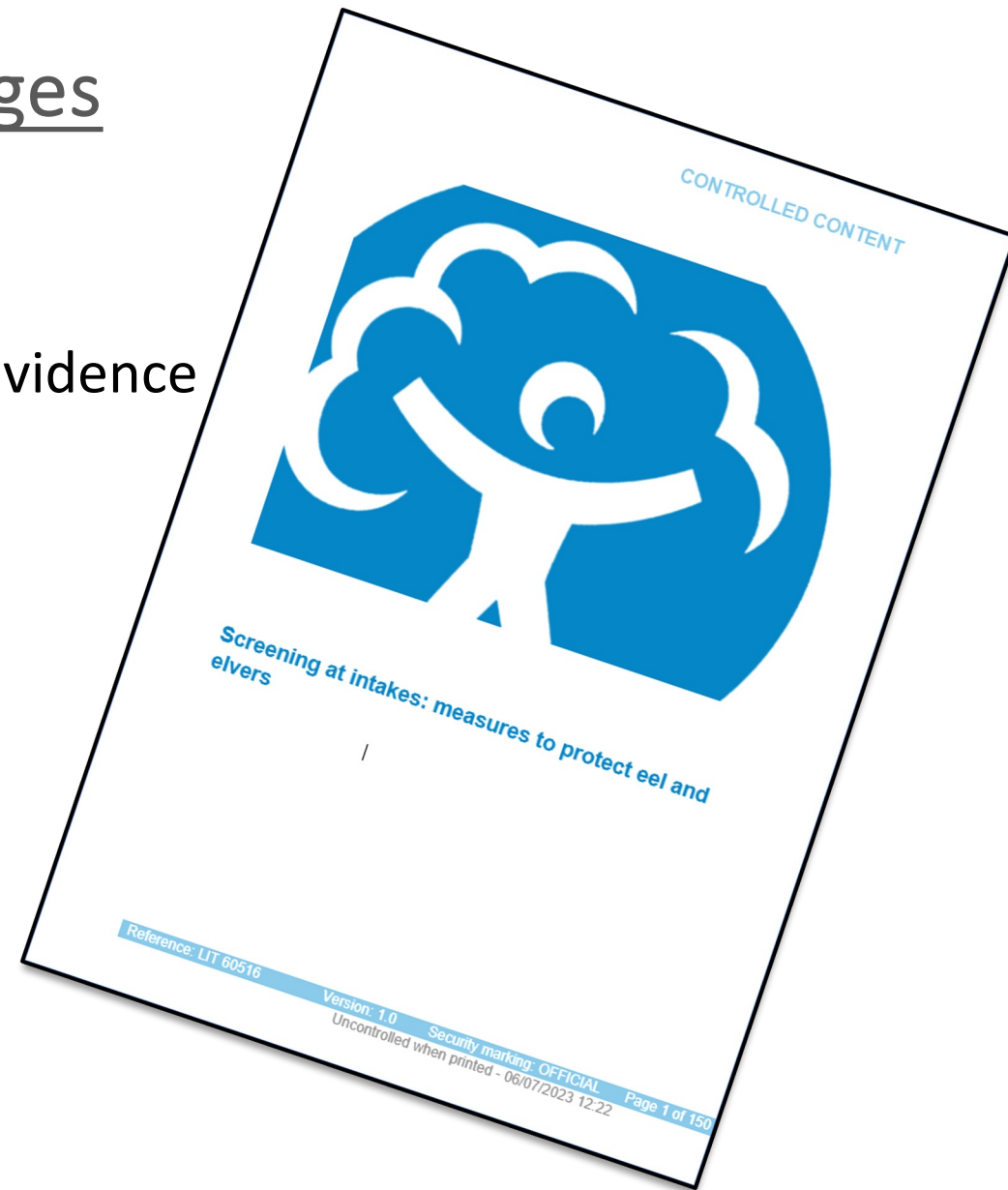
Our regulatory approach



- Scale of implementation
 - Prioritisation of existing structures
- Ability to pay
 - Programming approach
 - BAEP/Alternative measures
 - Exceptional cost as proxy for affordability
- Regulatory constraints
 - Primary assessment (structure in scope/ eel measures needed?)
 - Cost Benefit Analysis
- Data and Evidence
 - Primary assessment – site specific data

How we addressed the issues & challenges

- Data and Evidence
 - Leading and supporting research
 - Primary assessment – take account of site specific evidence
 - Technical guidance
- The legislation
 - Exemptions – “opt out” vs “opt in”
 - Scale of implementation



How we addressed the issues & challenges

Technical solutions

- New products to market
- Testing of new products
- Environment Agency technical guidancee – latest update 2022
- Best Achievable Eel Protection (BAEP) – in regulatory process and technical guidance.



What has been achieved so far?

“What have the Eels Regs ever done for us?”

- Increasing awareness
- Collaboration
- New regulatory process, inc BAEP
- Research
- Updated technical guidance
- New products to market – choices for operators
- **Approx 350 eel screens installed** (with many more planned)
- **40+ less damaging (BAEP) pumps** (with many more planned)
- Less damaging turbines.
- Operators reporting operational cost savings as a result of their eel screens!
- Wider benefits for other fish species





What have we learned?

- Get the legislation right.
- Engage with operators
- Set out a clear regulatory approach
- Prioritise – bite-sized chunks
- Pace of delivery - planning
- Legislation/regulation can drive innovation

Lessons learned

Thank you for listening

