

[REDACTED]

From:

Sent:

[REDACTED]
11 October 2016 14:23

To:

Cc:

[REDACTED] Director of
Environment & Forestry; Campbell B (Bridget); [REDACTED]
Director of Marine Scotland Mailbox; Palmer MR (Mike); [REDACTED]
[REDACTED]

Subject:

Independent Review of Scottish Aquaculture Planning and Consenting

Dear Mr Ahearn

Please see the attached letter relating to the above review, regarding the "quick win" of moving wellboat marine licences into CAR licences.

Please let me know if you have any queries or require clarification.

Regards



Implementation -
Quick Win 4 -...

[REDACTED]
Head of Aquaculture Planning / Environmental Assessment Specialist
Marine Scotland
Victoria Quay, Edinburgh EH6 6QQ
[REDACTED]



Terry Ahearn
Chief Executive
Scottish Environment Protection Agency
Strathallan House
Castle Business Park
Stirling FK9 4TZ

by email

Our ref: ICR/ML to CAR/SEPA
11 October 2016

Dear Mr Ahearn

Independent Review of Scottish Aquaculture Planning and Consenting Integration of Wellboat Marine Licences into the CAR Regime

As a result of concerns expressed by the aquaculture industry, Marine Scotland and The Crown Estate commissioned an independent review of the aquaculture planning and consenting process late last year. The final report was published in July 2016 and makes 23 recommendations for change. Some of these could be implemented relatively quickly, while others would necessarily be longer-term. The recommendations are currently under consideration by Marine Scotland, in conjunction with the Capacity Working Group (which operates under the auspices of the Ministerial Group on Sustainable Aquaculture, and includes representatives from industry and the consenting bodies, including SEPA).

One of the "quick win" recommendations is to integrate the Wellboat Marine Licence into the Controlled Activity Regulations (CAR) licence. Currently the release of medicine residues from a fish farm is regulated by SEPA through the CAR licence. The release of the same residues from a wellboat at the farm is regulated by Marine Scotland through a marine licence which derives its conditions from the existing CAR licence.

Transferring wellboat responsibility to SEPA would allow all medicine residues to be managed through the CAR licence. It would remove the need to obtain a separate consent for use of a wellboat and would streamline the process of consenting and managing fish farms for both regulators and site operators. A similar proposal has previously been considered, during the passage of the Marine (Scotland) Act 2010 (with the support of SEPA), but was not taken forward at that point. At this stage our understanding is that this proposal would have minimal resource implications for SEPA.

We have held informal discussions with colleagues in SEPA, MS-LOT, and the Scottish Government (Environmental Quality) and to date this proposal is supported by all parties.



The recommendation is also supported by the industry representatives on the Capacity Working Group.

We are therefore seeking your formal agreement to begin moves to enable the transfer of responsibilities, subject to advice from our solicitors and yours. Assuming that you agree, we are seeking to make an announcement on this at the finfish summit scheduled for 28 October 2016. Simply for information, we have committed to advising Scottish Ministers on the best way forward for all 23 recommendations at the beginning of November.

I would therefore be grateful if you could respond to my letter at your earliest convenience, and by 21 October 2016 at the latest. Please let me know if you have any queries or require further clarification.

Yours sincerely

[REDACTED]
Head of Aquaculture Planning
Marine Scotland

cc Calum MacDonald, SEPA (Executive Director)
[REDACTED] (Specialist I Aquaculture)
[REDACTED] Scottish Government
[REDACTED] Scottish Government
[REDACTED] Scottish Government
Director, Marine Scotland
Mike Palmer, Marine Scotland

[REDACTED]



Scottish Environment
Protection Agency

Buidheann Dion
Àrainneachd na h-Alba

Our Ref:
Your Ref:

If telephoning ask for:

[REDACTED]
Head of Aquaculture Planning
Marine Scotland
Victoria Quay
Edinburgh
EH6 6QQ

18 October 2016

By email : [REDACTED]

Dear [REDACTED]

Independent Review of Scottish Aquaculture Planning and Consenting Wellboat Licensing

I write regarding your recent letter dealing with the proposal to bring the authorisation of wellboat discharges at fish farm premises into the fish farm licensing regime operated by SEPA under the Water Environment (Controlled Activities) (Scotland) Regulations 2011 (CAR) and can confirm that SEPA is fully supportive of this proposal.

The precise details of the mechanism by which this change can be made will depend on legal advice but the broad principal of including wellboat discharges at fish farms under CAR appears to be an easy win in terms of the objectives of reducing bureaucracy and duplication. These are objectives that SEPA strongly supports, in terms of our own work as an EPA but also in our pursuit of the aims of the Capacity Working Group. SEPA looks forward to further discussions with Marine Scotland and the other relevant parties with the aim of making this transition as smoothly and swiftly as possible.

I am content that our agreement in principal to this change is announced at the Finfish Summit on the 28th October. [REDACTED] (Head of Sector Unit) and [REDACTED] (Specialist I Aquaculture) will be representing SEPA at the Summit should there be a need for discussion around this topic on the day.

Yours sincerely

[REDACTED]
Terry A'Hearn
Chief Executive Officer

Cc Calum MacDonald, SEPA (Executive Director)
[REDACTED] SEPA (Specialist I Aquaculture)
Bridget Campbell, Scottish Government



Chairman
Bob Downes

Chief Executive
Terry A'Hearn

[REDACTED]
SEPA Stirling Office
Strathallan House, Castle Business Park,
Stirling FK9 4TZ
tel 01786 457700 fax 01786 446885
www.sepa.org.uk • customer enquiries 03000 99 66 99

[REDACTED] Scottish Government
[REDACTED] Scottish Government
[REDACTED] Scottish Government
Director, Marine Scotland
Mike Palmer, Marine Scotland
[REDACTED] Marine Scotland
[REDACTED] Marine Scotland
[REDACTED] Marine Scotland
[REDACTED] MS-LOT
[REDACTED] MS-LOT
[REDACTED] MS-LOT

[REDACTED]

From: [REDACTED]
Sent: 18 October 2016 16:45
To: [REDACTED]
Cc: Campbell B (Bridget); [REDACTED] Director of Marine Scotland Mailbox; Palmer MR (Mike); [REDACTED]
[REDACTED] Ahearn, Terry
Subject: Independent Review of Scottish Aquaculture Planning and Consenting Wellboat Licensing
Attachments: [REDACTED] Marine Scotland.pdf

Dear [REDACTED]

Please find attached reply to your letter regarding the above subject from Terry A'Hearn, CEO, SEPA.

Kind regards

[REDACTED]
Personal Assistant to Terry A'Hearn
Chief Executive

Scottish Environment Protection Agency | Strathallan House | Castle Business Park | Stirling FK9 4TZ

T: [REDACTED]
e: [REDACTED]
w: www.sepa.org.uk

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[REDACTED]

From: [REDACTED]
Sent: 20 October 2016 11:27
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: Independent Review of Scottish Aquaculture Planning and Consenting Wellboat Licensing

Dear Mr Ahearn

Thank you for your reply. We will now make arrangements to discuss the way forward with our respective legal teams, with [REDACTED] assistance.

Regards

[REDACTED]

[REDACTED]
Head of Aquaculture Planning / Environmental Assessment Specialist
Marine Scotland
Victoria Quay, Edinburgh EH6 6QQ
[REDACTED]

From: [REDACTED]
Sent: 18 October 2016 16:45
To: [REDACTED]
Cc: Campbell B (Bridget); [REDACTED] Director of Marine Scotland Mailbox; Palmer MR (Mike); [REDACTED] Ahearn, Terry
Subject: Independent Review of Scottish Aquaculture Planning and Consenting Wellboat Licensing

Dear [REDACTED]

Please find attached reply to your letter regarding the above subject from Terry A'Hearn, CEO, SEPA.

Kind regards

[REDACTED]

Personal Assistant to Terry A'Hearn
Chief Executive

Scottish Environment Protection Agency | Strathallan House | Castle Business Park | Stirling FK9 4TZ

[REDACTED]

w: www.sepa.org.uk

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From: Ahearn, Terry [REDACTED]
Sent: 14 October 2016 20:38
To: [REDACTED]
Cc: [REDACTED] Director of Environment & Forestry; Campbell B (Bridget); [REDACTED] Director of Marine Scotland Mailbox; Palmer MR (Mike); [REDACTED]
Subject: RE: Independent Review of Scottish Aquaculture Planning and Consenting

[REDACTED]

Thanks for your letter. Good to see this progress.

I will reply this week with a formal letter of support.

Terry.

Sent with Good (www.good.com)

-----Original Message-----

From: [REDACTED]
Sent: Tuesday, October 11, 2016 02:23 PM GMT Standard Time
To: Ahearn, Terry
Cc: [REDACTED]
Subject: Independent Review of Scottish Aquaculture Planning and Consenting

Dear Mr Ahearn

Please see the attached letter relating to the above review, regarding the "quick win" of moving wellboat marine licences into CAR licences.

Please let me know if you have any queries or require clarification.

Regards

[REDACTED]

[REDACTED]

Head of Aquaculture Planning / Environmental Assessment Specialist
Marine Scotland
Victoria Quay, Edinburgh EH6 6QQ

[REDACTED]

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Tha am post-d seo (agus faidhle neo ceanglan còmhla ris) dhan neach neo luchd-ainmichte a-mhàin. Chan eil e ceadichte a chleachdadh ann an dòigh sam bith, a' toirt a-steach còraichean, foillseachadh neo sgaoileadh, gun chead. Ma 's e is gun d'fhuair sibh seo le gun fhiosd', bu choir cur às dhan phost-d agus lethbhreac sam bith air an t-siostam agaibh, leig fios chun neach a sgaoil am post-d gun dàil.

Dh'fhaodadh gum bi teachdaireachd sam bith bho Riaghaltas na h-Alba air a chlàradh neo air a sgrùdadh airson dearbhadh gu bheil an siostam ag obair gu h-èifeachdach neo airson adhbhar laghail eile. Dh'fhaodadh nach eil beachdan anns a' phost-d seo co-ionann ri beachdan Riaghaltas na h-Alba.

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[REDACTED]

From: [REDACTED]
Sent: 27 February 2017 09:39
To: [REDACTED]
Subject: FW: Wellboats

From: [REDACTED]
Sent: 16 December 2016 14:51
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: Wellboats

Hi [REDACTED]

Thanks for getting in touch. In terms of timings, I'm hopeful that we can meet your timescale of end March but this will depend on the complexity of the legislative changes required, and whether any other changes are taken forward at the same time.

I'll speak to colleagues to get their views and come back to you early in the new year.

If I don't speak to you before Christmas, have a good festive break.

Regards

[REDACTED]

[REDACTED] Policy Officer | Aquaculture Team | Marine Scotland | Area 1-B North, Victoria Quay, Edinburgh
EH6 6QQ | [REDACTED]

From: [REDACTED]
Sent: 15 December 2016 15:50
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: Wellboats

Hi [REDACTED]

I understand you were progressing the below and had an internal meeting planned towards the end of November. I was wondering if there was an update? SEPA are currently undertaking a review, that has resulted in a need for a significant proportion of our MCFE CAR licences to be varied. It would be ideal if we could make all the relevant changes at once, including any changes we needed to make to specific CAR licences in regards to Wellboat discharges. In terms of timings, we were are planning to issue these variations by the end of March 2017. Obviously if there is a significant legal impediment and/or a lot of work needs done in terms of the Wellboat aspect then both these processes could be done separately, however for the sake of efficiency it would be good to at least investigate whether we could get to a position, where both processes could tie together.

If you could provide an update and could confirm the best way to make the initial steps forward that would be much appreciated.

Thanks

[REDACTED]

Specialist II (Aquaculture)

Scottish Environment Protection Agency, Kilbrandon House, Manse Brae, Lochgilphead PA31 8QX

Web: www.sepa.org.uk

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From: [REDACTED]

Sent: 16 November 2016 08:21

To: [REDACTED]

Cc: [REDACTED]

Subject: Wellboats

Hi [REDACTED]

I hope all is well with you in Edinburgh – first snow, well wet slush, on the road here on the way to work this morning!

I thought I'd drop you a quick email to see if we can get the ball rolling on the wellboats and CAR business and wondered if you have a solicitor contact in MS or SG who would be likely to be handling the issue? If you have a name and contact details our legal staff are keen to get in touch and see if we can get things underway, we're hopeful that it's not an enormous task.

All the best

[REDACTED]
Specialist I (Aquaculture)

SEPA Orkney Office

Norlantic House

KIRKWALL


Orkney

KW15 1GR

[REDACTED]

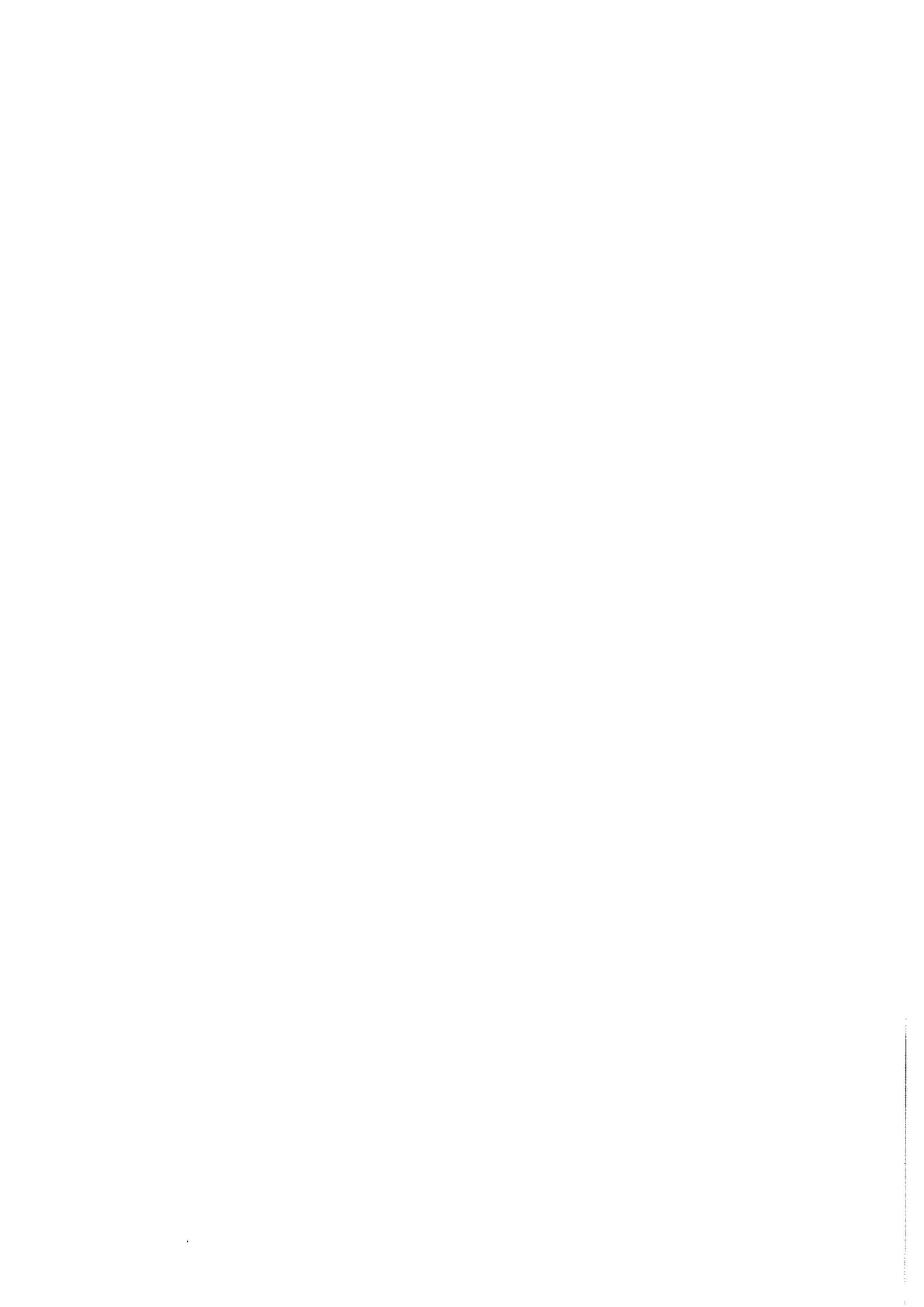
[REDACTED]

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Scottish Environment
Protection Agency

Our Ref: AJR/DS/JC/
EXT05-A-
F0183328

Your Ref:

If telephoning ask for:

26 November 2012

██████████
Senior Assistant Clerk
Rural Affairs, Climate Change and Environment Committee
Room T3.40
The Scottish Parliament
Edinburgh
EH99 1SP

By email: racce.committee@scottish.parliament.uk

Dear ██████████

AQUACULTURE AND FISHERIES (SCOTLAND) BILL – CALL FOR EVIDENCE

Thank you for providing the Scottish Environment Protection Agency (SEPA) with the opportunity to provide Written Evidence with regard to the above Bill. SEPA welcomes the draft Aquaculture and Fisheries Bill and accompanying documentation and has the following comments on these:

1. The consultation on proposals for the Aquaculture and Fisheries Bill discussed a number of major areas of particular interest to SEPA. These relate particularly to unused consents, biomass control and the regulation of well-boats. Following discussions with a number of interested parties, SEPA is of the opinion that the former two issues can be satisfactorily dealt with using existing legislative provisions. The issues highlighted by SEPA relating to well-boats appear to remain outstanding and are not addressed by the provisions of the Bill.
2. The main concerns raised by SEPA around the issue of well-boats relate to the current arrangements whereby release of medicine residues from cages at fish farm premises are regulated by SEPA under the Water Environment (Controlled Activities) (Scotland) Regulations 2011 but releases of the same residues from well-boats at or around fish farm premises are regulated by Marine Scotland under the Marine (Scotland) Act 2010. These arrangements pose a number of significant problems with regard to regulation and enforcement but are also unnecessarily bureaucratic, costly and burdensome on the aquaculture industry.
3. The difficulties with regulation and enforcement stem from the problems that either regulator may have in taking action where a breach of the conditions relating to medicine residue releases set out in permits has occurred but there is a lack of clarity over how such releases may have been made. For example, the collection of evidence by inspectors under the powers provided under either the Water Environment (Controlled Activities) (Scotland) Regulations 2011 or the Marine (Scotland) Act 2010 may not be admissible under proceedings taken under the alternative regime making enforcement action more difficult, in what is an already complex regulatory arena.
4. As far as bureaucracy, administrative burden and costs are concerned, the current approach requires farm operators to have two licences in place for what is essentially the same activity – releasing medicine residues following the treatment of fish.



Chairman
David Sigsworth

Chief Executive
James Curran

Dingwall Office
Graesser House, Fodderty Way
Dingwall Business Park, Dingwall IV15 9XB
tel 01349 862021 fax 01349 863987
www.sepa.org.uk

A Marine Licence for well-boat releases at fish farms costs in excess of £1000 and requires renewal after 1 or 3 years. When issued, the licence contains exactly the same conditions limiting releases from the well-boat as SEPA has derived for cage based releases. Thus fish farm operators are paying for an additional licence and application process with associated consultations and related processes for a permit to undertake an activity which in most cases they are already licensed to undertake under the Water Environment (Controlled Activities) (Scotland) Regulations 2011. The only difference being that the additional licence allows the flexibility of using vessel to undertake the treatment.

5. The authorisation of such releases under the Water Environment (Controlled Activities) (Scotland) Regulations 2011 could be done as an "administrative" variation to existing licences for a nominal fee. Once integrated into the licence such variations essentially last in perpetuity, avoiding the need for a costly re-application, unless the operator seeks further variation or SEPA chooses to change such licence conditions as a result of periodic review. There is however currently a legislative impediment to SEPA authorising releases from well-boats as activities requiring authorisation under the Marine (Scotland) Act 2010 are specifically excluded from control under the Water Environment (Controlled Activities) (Scotland) Regulations 2011.
6. The change in legislation required to bring licensing of well-boats within the scope of the Water Environment (Controlled Activities) (Scotland) Regulations 2011 could be achieved through a change to the definition of "licensable activities" set out in the Marine (Scotland) Act 2010 – by amending section 21. A change in the definition of licensable activities could be achieved by Order, (s21 of the Marine Act makes specific provision for this) or by an amendment included in the Aquaculture and Fisheries (Scotland) Act. In either case, the result would be the occlusion of a legislative and enforcement gap, and a simplification of the regulatory landscape and reduction in costs for operators working in the aquaculture sector.
7. As for the provisions for well-boats that are discussed in the Bill, SEPA is supportive of improved engineering and equipment to reduce the possibility of disease and parasite transmission and allow the monitoring of the activities of these vessels.
8. A number of further issues were detailed in the Bill consultation that are less directly within SEPA's role but are nonetheless of interest to the Agency. These include the publication of sea louse data. Although the publication of sea louse data does not feature in the Bill, SEPA retains the view expressed in our consultation response that sea louse data from fish farms should be published, on a site by site basis in as near to real time as practicable. There are various reasons for our belief that this is the correct approach.
9. There is considerable discussion and anecdotal evidence around the issue of resistance developing in sea lice to some of the products used to deal with them. Clinical decisions as to the appropriate treatment to use on any given occasion should be informed by an awareness of which treatments may or may not have been effective in the vicinity of the farm where treatment is proposed. This can be ascertained by bioassay – testing the sensitivity of the lice on the farm to the available products but also can be informed by the effectiveness of recent treatments undertaken on other sites in the same area or waterbody. Reasonable communication takes place between some but by no means all operators, so having information on the effectiveness of treatments available publically would make treatment decisions easier.

10. As well as clear clinical reasons, there is a philosophical disconnect in terms of public interest where sea louse data is not published. Sea louse infestations on farmed fish are dissimilar to routine diseases or parasite infestations in terrestrial animals because unlike these afflictions, the presence of lice on farmed salmon is almost ubiquitous and there is a strong likelihood that the sea lice arising from farmed fish may impact upon the interests of others – for example, those who own or enjoy Scotland's wild salmonid fisheries. In a general sense, in most other areas and sectors, the impacts of those who benefit from the use of the Scottish environment and whose practices may impinge upon the interests of others are exposed to public scrutiny. There seems to be no coherent reason why sea louse data should be treated any differently. Further, most of the companies operating in Scotland also operate under regimes in foreign countries where publication of such data is routinely required. SEPA therefore continues to support the publication of near real time sea louse data and considers that the lack of proposals in the Bill to address this issue is a significant omission.
11. SEPA would also support a reporting requirement relating to the numbers of fish mortalities on a farm-by-farm basis. This would allow the FHI to monitor patterns of mortality and respond appropriately.
12. The sharing of information on fish health issues is an important element in ensuring that sister regulatory agencies work together cooperatively. This might be facilitated either by legislative provisions or through policy development and close liaison between relevant agencies.
13. We note and welcome, in the Explanatory Notes, as part of the Financial Memorandum at Part 4 on Shellfish, under the Protection of shellfish waters, at paras 318-319, the proposals to continue to protect water quality in designated shellfish waters and to create a legislative framework that enables the continued designation of shellfish water protected areas following the repeal of the Shellfish Waters Directive in 2013. We also note and welcome the proposal at para 322 to align the process of designation and de-designation of shellfish waters with the RBMP timescale (i.e. every 6 years) and to set up a working group to take forward a range of supporting actions.
14. SEPA hopes the comments above assist in the discussions around the Aquaculture and Fisheries (Scotland) Bill and is content to provide further information, input and clarification as required either by correspondence or before the Rural Affairs, Climate Change and Environment Committee on 5 December.
15. As a public body committed to openness and transparency, SEPA feels it is appropriate that this response be placed on the public record. If you require further clarification on any aspect of this correspondence, please contact [REDACTED] Specialist I (Aquaculture), SEPA, Norlantic House, Kirkwall, Orkney KW15 1GR [REDACTED]

Yours sincerely

[REDACTED]
Head of Operations North

