

## RESPONSE TO F0192620

### 1. Requested Information

*Re: MOWI's proposed North Kilbrannan Open Cage Salmon Farm*

*We are unable to locate some key data on which MOWI and SEPA have agreed the relevant Licence CAR/L/1168182. MOWI's published documents concerning chemical treatments for the SEPA licence focussed on the in-feed use of emamectin benzoate, but even though this chemical has not been included within the licence and is no longer relevant, they have published the same modelling document for the planning application. Other toxic chemicals are included in the licence for use as bath treatments, but MOWI have only published the concentration of these chemicals within the cages without any supporting modelling. As an example, we note that azamethiphos is considered a hazardous chemical where operators are advised to wear heavy duty PPE, to clear unnecessary staff from the working area, to undergo blood tests, to wash off accidental splashes and not to dispose of the chemical in surface water. The SEPA CAR licence permits this chemical to be released into the sea.*

*[1] Please will you produce the document or study that regulates the safety of humans swimming in the immediate vicinity of an open-cage salmon farm or well-boat that is releasing azamethiphos, deltamethrin, cypermethrin, hydrogen peroxide or sodium hypochlorite? Most of the documentation explains the dangers for operators using the chemical and the environmental risk to lobsters, but we cannot find any guidance on the safety of human bystanders / swimmers.*

*[2] If it is unsafe to swim in the immediate vicinity of a salmon cage or well-boat releasing azamethiphos, deltamethrin, cypermethrin, hydrogen peroxide or sodium hypochlorite, please will you produce the document or study which defines the distance at which swimming would be considered safe, together with the calculated results for this site? We can find nothing in the public domain nor in MOWI's site specific publications on this subject and of course in addition to toxicity, it is necessary to consider the other potential effects. These include skin irritation and the impact on small children with low body masses or elderly adults with neurodegenerative conditions who regularly swim in the bay and would be particularly vulnerable to the smallest traces of nerve agent or other hazardous chemicals.*

## 2. Response

We can confirm that we have handled your request under the terms of the Environmental Information (Scotland) Regulations 2004 (EIRs).

***We are unable to locate some key data on which MOWI and SEPA have agreed the relevant Licence CAR/L/1168182. MOWI's published documents concerning chemical treatments for the SEPA licence focussed on the in-feed use of emamectin benzoate, but even though this chemical has not been included within the licence and is no longer relevant, they have published the same modelling document for the planning application. Other toxic chemicals are included in the licence for use as bath treatments, but MOWI have only published the concentration of these chemicals within the cages without any supporting modelling. As an example, we note that azamethiphos is considered a hazardous chemical where operators are advised to wear heavy duty PPE, to clear unnecessary staff from the working area, to undergo blood tests, to wash off accidental splashes and not to dispose of the chemical in surface water. The SEPA CAR licence permits this chemical to be released into the sea.***

The modelling report which SEPA received as part of the application is published on our website: <https://www.sepa.org.uk/regulations/consultations/advertised-applications-under-car/cars-hidden/1168182/>

As part of the application MOWI also submitted the enclosed supporting files; while they do not directly answer your query, they may provide some further helpful information. Please refer to the information in folder **Bath**.

If you are unable to access the modelling files; please contact [aquaculture.regulation@sepa.org.uk](mailto:aquaculture.regulation@sepa.org.uk).

This application was determined on the previous regulatory framework which did not require hydrodynamic modelling. Under this framework, a simplified modelling exercise was carried out which treats dispersion of bath medicines in a general, but conservative, way. These are the files referred to above. Calculations of concentration from this simplified method are expected to be accurate, ensuring environmental standards can be met, but they do not provide site specific plots of bath medicine influence.

In 2019 SEPA introduced a [new regulatory framework](#) for marine pen fish farms which requires more detailed marine modelling, including modelling of discharge plumes.

The new framework also increases the opportunity for communities to discuss proposals with the operators, SEPA and other stakeholders by way of the public liaison meeting, supported by SEPAs [Screening Modelling and Risk Identification Report](#).

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SEPA has not undertaken such a study and are not aware of any conducted by other agencies.

***[2] If it is unsafe to swim in the immediate vicinity of a salmon cage or well-boat releasing azamethiphos, deltamethrin, cypermethrin, hydrogen peroxide or sodium hypochlorite, please will you produce the document or study which defines the distance at which swimming would be considered safe, together with the calculated***

**results for this site? We can find nothing in the public domain nor in MOWI's site specific publications on this subject and of course in addition to toxicity, it is necessary to consider the other potential effects. These include skin irritation and the impact on small children with low body masses or elderly adults with neurodegenerative conditions who regularly swim in the bay and would be particularly vulnerable to the smallest traces of nerve agent or other hazardous chemicals.**

SEPA has not undertaken such a study and are not aware of any conducted by other agencies, however we understand the concerns raised and undertake to explore your questions with other regulators with relevant jurisdiction and will respond to you further once we have had the opportunity to consider what steps may be taken either jointly or by SEPA.

Further information regarding the regulations/ exceptions applied to this information can be found below.

## 3. Application of Regulations/Exceptions

### 3.1 Section 39(2)

We have applied the exemption under Section 39(2) of the Freedom of Information (Scotland) Act 2002 as we have determined that the information sought in your request is environmental information. We are therefore handling your request under the terms of the Environmental Information (Scotland) Regulations 2004 (EIRs). In this case the public interest in maintaining this exemption and in dealing with the request in line with the requirements of the EIRs outweighs any public interest in disclosing the information under FOISA.

### 3.2 Regulation 6(1)(b) Publicly available & easily accessible

Where we have advised above that information is publicly available & easily accessible Regulation 6(1)(b) applies, the text of which is reproduced below:-

*6(1) Where an applicant requests that environmental information be made available in a particular form or format, a Scottish public authority shall comply with that request unless-*  
*(b) the information is already publicly available and easily accessible to the applicant in another form or format.*

### 3.3 Regulation 10(4)(a) – Information not held

Where we have advised above that SEPA does not hold this information it is excepted under Regulation 10(4)(a) of the Environmental Information Regulations 2004. The text of which is reproduced below;

*(4) A Scottish public authority may refuse to make environmental information available to the extent that;-*  
*(a) it does not hold that information when an applicant's request is received.*

The exception in regulation 10(4)(a) is subject to the public interest test in regulation 10(1)(b) of the EIRs. As SEPA does not hold the information in question there is no conceivable public interest in requiring that the information be made available.

### **What to expect when making a Request for Information**

Each request for information, under The Environmental Information (Scotland) Regulations 2004 or the Freedom of Information (Scotland) Act 2002, is formally logged by the authority. The request falls within a process that has two internal stages carried out by the authority; a right of appeal to the Scottish Information Commissioner followed by an appeal to the Court of Session on a point of law only.

- Stage 1 – Request for information
- Stage 2 – Formal Review
- Stage 3 – Appeal for decision by Scottish Information Commissioner (OSIC)
- Stage 4 – Appeal to the Court of Session on a point of law only.

Each enquiry will have a unique Reference Number which should be quoted when you contact us.

### **How you will be kept informed**

You will receive an acknowledgement for your request and Formal Review. We aim to reply to all enquiries promptly, within 20 working days. You will receive a response along with the requested information and/or an explanation regarding any withheld information. We may also contact you if we require clarification or if we are issuing a fees notice.

### **What happens once your enquiry has been responded to?**

If you are not happy with the response or have failed to receive a response, you have the right to request a Formal Review from SEPA.

Guidance on your rights and how to ask for a review is on the Scottish Information Commissioner's website; <http://itspublicknowledge.info/YourRights/Askingforareview.aspx>

We will ensure that all personal data is processed, recorded and retained in accordance with the requirements of the Data Protection Act 2018 throughout the handling of each request. You have a right to see information about yourself via submitting a Subject Access Request under the Data Protection Act 2018.

### **What to do if you are not happy with how your enquiry and review were handled**

If you are unsatisfied with our Formal Review response or have failed to receive a response, you can then appeal to the Scottish Information Commissioner via the links below.

[www.itspublicknowledge.info/appeal](http://www.itspublicknowledge.info/appeal)

<http://www.itspublicknowledge.info/home/ContactUs/ContactUs.aspx>

Should you wish to appeal against the Scottish Information Commissioner's decision, you have the right to appeal to the Court of Session on a point of law only. Any such appeal must be made within 42 days after the date of intimation of the decision.