

FINFISH AQUACULTURE SECTOR

Background

SEPA is committed to supporting everyone it regulates during the Covid-19 outbreak, whilst maintaining protection of Scotland's environment. SEPA will listen, and quickly respond to challenges as they emerge and welcomes early discussions with operators to achieve shared solutions.

SEPA recognises that, during a significant outbreak of Covid-19, the ability of operators to run their operations may be compromised by a lack of available staff or the need to protect staff and minimise transmission of the Covid-19 virus.

SEPA expects everyone it regulates to take all reasonable steps to remain in compliance with Scotland's environmental laws. SEPA also expects operators to be preparing themselves as far as practical for the challenges of the Covid-19 outbreak with the aim of ensuring that impacts on the environment are minimised.

SEPA recognises that the consequences of the outbreak may mean it is not possible for operators to comply fully with their permit conditions at all sites for reasons beyond their control. SEPA will take account of the challenges faced by operators in its approach to compliance assessment and enforcement during this exceptional period.

This regulatory position

This regulatory position applies to marine and freshwater finfish aquaculture sites. It applies only in Scotland.

SEPA expects all operators in the finfish aquaculture sector to manage their farms and hatcheries during the period of the Covid-19 outbreak to minimise the risk of harm to the environment as far as possible.

The regulatory position describes how and in what circumstances operators may temporarily operate under the conditions of the position.

The terms of this regulatory position may be subject to periodical review and may be varied or withdrawn by SEPA, for example in light of changes in circumstances during the outbreak; technological, regulatory or legislative changes; future government guidance; or experience of its use.

SEPA will provide notice in advance to the Scottish Salmon Producers Organisation (SSPO) and the British Trout Association of its intention to vary or withdraw this position.

SEPA reserves its discretion to depart from this regulatory position and to take appropriate action to avoid any risk of pollution or harm to human health or the environment.

1. Monitoring-related conditions

SEPA understands that the ability of operators in the finfish aquaculture sector to collect environmental samples within the window of time required by their authorisations may be compromised by a lack of available staff due to the outbreak. Similarly, SEPA recognises that the ability of operators in the sector to ensure samples are analysed and reported within the period of time specified in their authorisations for reporting may also be compromised due to the outbreak.

Any failure to comply in full with monitoring-related conditions due to the outbreak will not be treated as a non-compliance when reporting on operator compliance or for enforcement, provided that:

- (a) SEPA is notified in advance on a site-by-site basis of such non-compliances and provided with a suitable explanation as to why the outbreak prevented compliance; and
- (b) available monitoring capacity during the outbreak period is prioritised on sites that are operating under SEPA's new regulatory framework for marine finfish farms; sites at which biomass limits are exceeded in accordance with this regulatory position (see section 3 below); sites not previously monitored; and sites that failed environmental standards when last monitored.

2. Fallow period conditions

SEPA recognises that postponements to harvests during the Covid-19 outbreak may be required due to staff availability. SEPA also understands that, due to the outbreak, operators in the sector may require to hold fish at sea for longer periods and put smolts out to sea earlier due to a reduction in availability of processors or access to markets.

The operation of farms with shortened fallow periods or with fish held at sea for longer than the maximum time specified in authorisations will not be treated as non-compliances when reporting on operator compliance or for enforcement, provided that SEPA is:

- (a) notified in advance on a site-by-site basis; and
- (b) provided with a suitable explanation as to why the outbreak prevented compliance.

3. Biomass limits

SEPA recognises that postponements to harvests during the Covid-19 outbreak may be required due to staff availability and that this may create challenges for operators to stay within biomass limits and associated stock density conditions. SEPA also recognises that operators may require to hold fish for longer than normal in pens due to reduced fish processing capacity or reduced access to markets.

Temporary breaches of biomass limits specified in authorisations will not be treated as non-compliances when reporting on operator compliance or for enforcement, subject to operators:

- a) taking all practical steps to minimise the scale of exceedance of the limits, such as adjusting feeding strategies; re-locating fish if possible, taking account of fish health considerations; and grading out fish where feasible;
- b) except where it is not possible for reasons due to the outbreak, organising available capacity to harvest and process fish such that:

- (i) biomass limits are only exceeded at sites at which, based on an environmental risk assessment, the likelihood of environmental harm is low; and
 - (ii) biomass is maintained within biomass limits at sites where environmental risk resulting from exceeding the limits is greatest; and
- c) notifying SEPA on a site-by-site basis in advance of any exceedance of biomass limits occurring and providing SEPA with a suitable explanation, relating to the outbreak, as to why the exceedance is necessary and how the operator is ensuring that the risk of harm to the environment is minimised.

4. General conditions

- a) All other authorisation conditions still apply without modification.
- b) This regulatory position does not apply to any other regulatory requirements and does not detract from any other statutory requirements applicable to operators.
- c) Operators must notify SEPA without delay where they have been unable to meet any of the conditions of this regulatory position with respect to monitoring-related conditions; fallow conditions and biomass limits.
- d) Confirm to SEPA in writing at the reporting address specified in the authorisation within 5 days of returning to compliance following any breaches of the monitoring, fallow and biomass conditions provided for under this regulatory position.

Notes:

- (a) SEPA is happy to discuss with the SSPO, British Trout Association and individual operators how the simple environmental risk assessments referred to above might be undertaken.
- (b) SEPA will work with the SSPO and the British Trout Association on practical notification arrangements under this regulatory position.
- (c) SEPA is happy to discuss specific issues with operators relating to the operation of their farms during the outbreak.
- (d) Changes to fallow periods, stock densities; the duration over which fish are held in pens; and to other farm management practices, such as re-locating fish, can have implications for fish health. SEPA will work jointly with the Fish Health Inspectorate when engaging with the sector regarding this regulatory position and parallel advice on advice on fish health.