

Q6. Does the Finfish Aquaculture Sector Plan identify the right partners and influencers for SEPA to work with to achieve the vision?

YES

We base our response on Figure 8 in the consultation document. We consider that figure 8 represents a fairly comprehensive list of those who should be engaged in future. However, it is important to emphasise that District Salmon Fishery Boards are statutory consultees in the planning process and therefore it is incorrect to place these bodies within a box labelled 'NGOs'. The document makes a number of references to partnerships and working with partners throughout the document, but there is little detail about how this will work in practice. For example: on page 14, there is a section entitled 'strengthening the evidence base', but no reference is made to the role of the DSFBs and Fisheries Trusts in collecting data; section 5 discusses how SEPA, working with partners, will address non-compliance, reduce pollution and strengthen the regulatory framework – it is not clear which partners are being discussed here. More detail is required to understand whether such partnerships will be meaningful and mutually beneficial.

As we expressed at a specific meeting with SEPA in Edinburgh we were disappointed not to have been asked to contribute to the development of the sector plan at a much earlier stage. Much of the controversy that exists around finfish aquaculture relates to interactions between wild and farmed fish. Fisheries Management Scotland responded to the Whisky Sector plan and expressed concern that the plan appeared to have been developed with the regulated sector, but in the absence of input at an early stage from a range of other interested parties. It is therefore extremely disappointing that the same approach appears to have been adopted in the finfish plan.

We believe that the sector plan approach has the potential to be a positive development for the environment. However, it is vital that such plans are developed from an early stage with input from a range of interested parties. Given that the fisheries management sector is likely to take an interest in many of the developing sector plans, we would hope that Fisheries Management Scotland, and our members, will have a key role to play.

Q7. Does the Finfish Aquaculture Sector Plan contain the right actions and priority actions to tackle non-compliance?

NO

We have long held concerns about the regulatory regime for aquaculture in Scotland. As the Rural Economy and Connectivity Committee recognised in their recent report on Salmon Farming in Scotland, the current consenting and regulatory framework which is spread across several regulatory bodies is confusing and is poorly coordinated. They further noted that none of the existing regulatory bodies has responsibility for the impact of salmon farms on wild salmon stocks. The Committee called for clarity to be provided by the Scottish Government as to how this apparent regulatory gap will be filled and which agency will assume responsibility for its management.

We share the committee's view that the current system is poorly coordinated, and this view is reinforced by the fact that SEPA have brought forward proposals in this sector plan, which do not appear to be coordinated with potential wider reform of the regulatory system. Marine Scotland planning advice makes clear that environmental concentrations of larval sea lice relate to local farm lice loads and that salmon farms are a more important contributor than wild fish to the total numbers of salmon lice in the environment. Indeed, page 18 of the consultation document states,

‘There is increasing evidence internationally indicating that sea lice abundance in coastal waters can be greatly elevated where open net salmon farming takes place; and that high abundances of sea lice can contribute to some of the losses of wild salmon and sea trout at sea.’ However, SEPA do not currently consider sea lice as part of their remit (although we remain unclear as to the legal basis for this view). In moving forward with regulatory changes, which might allow bigger farms with significantly increased biomass, without considering the consequence of increased environmental concentrations of larval sea lice on wild fish, SEPA’s proposals have the potential to make the situation worse for wild fish.

Page 18 of the consultation document states that SEPA will work closely with Marine Scotland, other public bodies and the Interactions Working Group to help develop proposals for a new and risk-based framework for assessing and managing interactions between marine cage fish farming; sea lice numbers; and wild salmon and sea trout. There is also an intention to consider how, and in what circumstances, SEPA’s regulatory powers might be able to be used to help protect these wild fish.

In our view, identifying who will assume responsibility for management of impacts on wild salmonids is less important than ensuring that the body in question has appropriate powers, and sanctions available to properly discharge this function. If SEPA are to take on this role, we will need strong assurances that the resulting system is robust, enforceable and will be enforced. We would also expect to see a commitment, over a short timescale, to review all CAR licenses for fish farming (marine salmon and trout cages and freshwater smolt production in open cages) once the lacuna relating to wild fish impacts is addressed.

Q8. Does the Finfish Aquaculture Sector Plan contain all the right actions and priority actions to help businesses go beyond compliance?

NO

Priority Actions

1. SEPA will deal with the ongoing noncompliance issues in the sector

We support this priority action. However, we note that there is no mention of enforcement undertakings. When considering how, and in what circumstances, SEPA’s regulatory powers might be able to be used to help protect wild fish, we consider that Enforcement Undertakings potentially have a role to play, in addition to fixed and variable monetary penalties. We would highlight the recommendation of the REC Committee that ‘the application of visible enforcement by regulatory bodies has been limited. It is of the view that robust enforcement of regulatory standards is absolutely essential if they are to meet their intended purpose’.

2. We will commence a programme of work to modernise the regulation of existing sites

We are responding to this consultation from the basis of the protection of wild fish. Whilst other organisations will take a strong interest in benthic impacts, we would only do so in the case that we consider that important marine habitat for sea trout might be compromised. However, as the consultation document makes clear, sea lice abundance in coastal waters can be greatly elevated where open net salmon farming takes place and high abundances of sea lice can contribute to some of the losses of wild salmon and sea trout at sea. We do not support SEPA moving forward with proposals to ‘modernise’ the regulation of existing sites, until such time as the disjointed nature of the regulatory system is addressed. Indeed, by failing to consider the effects of regulatory decisions on Priority Marine features (Atlantic salmon and sea trout) we consider that SEPA is currently failing to discharge its biodiversity duty.

3. Develop new licences with simple outcome focused conditions

It is difficult to comment on this proposal without further information. However, please see our comments above relating to wild fish.

4. We will strengthen the environmental evidence available to support the industry's decisions where it is performing well and hold them to account where they fail to comply with regulation

We support the proposal to design and target environmental survey programmes with regard to the accuracy of modelling and check and assess environmental performance. However, we believe that SEPA's monitoring approach should be reviewed following the recommendation of the REC Committee that any changes to the enforcement regime should incorporate measures which will ensure that there is a move away from the self-assessment culture that appears to be prevalent at present.

5. Through partnership working, we will undertake a programme of work focussing on assessing environmental outcomes of the use of medicines

We support the proposal to explore new treatment technologies which offer treatment containment and environmental protection. However, 'environmental protection' must not be defined narrowly here and should include impacts on wild salmon and sea trout. Containment of treatment should also include adequate containment and removal of sea lice, and this should form part of the licensing process, accompanied with robust and appropriate enforcement powers.

Actions

We welcome the commitment to work with Marine Scotland, as lead agency for wild fish, and other regulators to plan how we can best contribute to the protection of wild salmon and sea trout from any likelihood of significant risks posed by the effects of marine cage fish farms on sea lice abundance in coastal waters. As stated above, we consider this to be the most important issue that needs to be addressed and that this needs to be built into the regulatory system prior to any significant changes to SEPA's approach. The protection of wild fish should not be 'shoe-horned' into an existing regulatory framework, unless that framework is demonstrably fit for purpose and contains the appropriate powers and sanctions to properly discharge this function.

We look forward to working with SEPA and other regulators, to design and implement an approach for monitoring impacts of aquaculture on wild fish and ensuring that the regulatory system responds appropriately to any impacts.

Q9. What actions do you think are the most important to ensure protection of the environment, and why?

The current regulatory system for fish farming covers, to a greater or lesser degree, all elements of the environmental impact of the activity, with the clear exception of impacts on wild salmon and sea trout. Whilst we support SEPA, and all other regulatory bodies, reviewing and updating regulatory approaches, we consider that the highest priority must be addressing the clearly identified regulatory gap relating to wild fish. We cannot support changes, taken forward in isolation from wild fish interactions, that have the potential to make the current situation for wild fish worse. We consider that SEPA, Marine Scotland, SNH and Local Authorities, should move quickly to develop proposals for the protection of wild fish, which are robust, transparent, enforceable and enforced, and which form an integral part of the overall regulatory regime. It is also important that District Salmon Fishery Boards, as statutory consultees in the aquaculture planning process are fully engaged and consulted in this process. This process should happen before the proposals in the sector plan are taken forward.

Q10. Do you agree with our proposals for a new, strengthened regulatory framework for marine cage fish farms?

NO

As set out above, these proposals should only be taken forward once we have a fully coordinated regulatory system that is fit for purpose.

Q11. Does the appendix to the sector plan deliver an appropriately strengthened regulatory framework to protect the environment and contribute to the vision of the Finfish Aquaculture Sector Plan?

Not appropriately enough

See comments above

Q12. Do you agree with the timetables proposed for introducing the new regulatory framework to new and existing sites?

NO

See above. We do not consider that these changes should be taken forward until the wider regulatory framework adequately addresses the protection of wild fish.

Q13. If you have any additional questions or comments on the Finfish Aquaculture Sector Plan and the strengthened regulatory framework, please add them here?

Since the publication of the Sector Plan the REC Committee has published its report into Salmon Farming in Scotland. We consider that the proposals set out in the sector plan should be examined in detail, in the light of the recommendation of the REC Committee and amended where appropriate. We have set out some key recommendations above, but we would also draw your attention to the following points:

There are several recommendations which relate to transparency of information and the timescale over which it is published. For example:

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The Committee is strongly of the view that, in order to increase transparency, there needs to be a significant enhancement in the way sea lice data and other key information related to the regulation of salmon farming is presented. It considers that a comprehensive, accessible reporting system of a similar standard to that which is already in operation in Norway should be introduced in Scotland.

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If the industry has aspirations to develop and grow, having a comprehensive reporting system which is transparent, reliable and, above all, trusted can only serve it well. The Committee is therefore of the view that there should be a suite of data available covering mortality, sea lice infestation, medicine application and treatment information.

Scotland's Aquaculture website is a useful source of some of this information, but the time lag between collection of data and its subsequent publication inhibits the effectiveness of this system. We consider that data should be made public in as near as possible to real time. In addition to the current chemicals licensed for discharge, we also consider that use of hydrogen peroxide should be reported to SEPA as a condition of consent. We are aware that large quantities of hydrogen peroxide

are currently being used in Scotland, and it is appropriate that the use and discharge of this chemical is reported transparently.

We also consider that the number of fish within the cages, rather than biomass, should be reported publicly. There are several reasons for this: biomass within the cages can only ever be an estimate, whereas the number of fish stocked into the cages, and the mortalities removed, can be counted with relatively high accuracy; currently the industry reports the number of lice per fish, based on sea lice counts on a small sample of fish – however, this figure takes no account of the overall number of fish in the cages, and therefore estimates of the overall lice burden on the farm cannot be made. At our meeting with SEPA in Edinburgh, the possibility of using volume of feed as a surrogate for biomass to regulate the size of the farm was mooted. We are interested to explore this further, but it would not remove the need to publish the number of fish within the farm.