

MARINE (SCOTLAND) ACT 2010, PART 4 MARINE LICENSING**NOTIFICATION CONCERNING TEMPORARY VARIATION OF LICENCES TO DEPOSIT ANY SUBSTANCE OR OBJECT WITHIN THE SCOTTISH MARINE AREA IN RELATION TO CHEMICALS OR AGENTS FROM WELLBOATS**

The Scottish Ministers (hereinafter referred to as “the Licensing Authority”) hereby notify

**Cooke Aquaculture Scotland Limited
Crowness Road
Hatston Industrial Estate
Kirkwall
Orkney
KW15 1RG**

of the variation in accordance with section 30(3)(a) of the Marine (Scotland) Act 2010 (“the Act”) of the relevant licences (“the Licences”): see Annex 1.

The Licensing Authority recognises that, as a consequence of the COVID-19 outbreak, the holder of the Licences (“Licensee”) may face challenges in resourcing activities performed under the Licences. There is the potential for licensed activities to be compromised by a lack of available staff or due to the need to protect staff and those in the wider community through physical distancing measures in response to COVID-19. Physical distancing measures also mean that non-medicinal interventions for treating sea lice are adversely affected, limiting the available techniques for controlling sea lice numbers. This in turn could have implications for fish health and welfare.

In the event that the licensed quantities of azamethiphos were not increased, it could take up to 14-days to complete the treatment of a fish farm, which would increase the risk of exposure to COVID-19 of both crew and fish farm workers. The BathAuto model used to model chemical plumes is a conservative model, with the result that the maximum concentration of azamethiphos which the model predicts would be present in the environment will be an overestimate of the concentration likely to occur in real-world plumes, and these plumes will remain similar in extent to the plumes from the individual amount of azamethiphos listed in the Licences.

The Licensee must remain in compliance with the terms of the Licences and all relevant legislation, including environmental laws. The Licensee should also prepare for the challenges of the COVID-19 outbreak to ensure that impacts on the environment, human health and legitimate use of the sea are minimised.

Mindful of the challenges posed by the COVID-19 outbreak, the Licensing Authority is varying the Licences, on a temporary basis, in accordance with section 30(3)(a) of the Act because of a change in circumstances relating to human health.

In accordance with section 31(2) of the Act, the Licensing Authority notified the Licensee, and

such other people and bodies who the Licensing Authority considered appropriate, of the proposal to vary the Licences. Hearings were heard of the representations and a report made on the merits of such representations in accordance with section 31(4) of the Act. A copy of the report is available here: <http://marine.gov.scot/ml/covid-19-wellboat-variations>.

In addition to having regard to the representations made, in accordance with section 31 (5)(b) of the Act, when making this variation, the Licensing Authority has taken account of the position statement issued by the Scottish Environment Protection Agency (“SEPA”) entitled ‘Temporary Regulatory Position – Response to Covid-19’, version 2 and this variation is consistent with that position as it refers to bath treatments of fish.

This variation is valid from 03 July 2020 until either:

- (a) the date on which Part 1 of the Coronavirus (Scotland) Act 2020 expires in accordance with section 12 of that Act; or
- (b) the date on which SEPA withdraws its Temporary Regulatory Position Statements, Response to COVID-19, Finfish Aquaculture Sector, SEPA Position: Time bound limits on bath treatment medicine quantities¹; or
- (c) such other date as the Licensing Authority specifies in any subsequent notification of variation (whichever is the shortest).

The particulars and conditions of the variation are described in Part 1 of the attached Schedule.

Signed:	
	Malcolm Rose
For and on behalf of the Scottish Ministers	
Date:	03 July 2020

¹ SEPA’s position statement can be found [here](#).

Part 1 – Particulars and Conditions

The Licences specify certain chemical(s) or agent(s) which can be deposited in the Scottish marine area in accordance with the terms of the Licences. The Licences contain time limitations upon the quantity of the specified chemical(s) or agent(s) that can be discharged in 3-hour periods and 24-hour periods.

For the purposes of this variation, a “Treatment Cycle” means a single cycle of treatment of fish, using chemical(s) or agent(s) as specified within the Licences, during which all fish from each stocked pen on a fish farm site are treated once with the relevant chemical(s) or agent(s).

The time limitations contained in the Licences concerning the quantity of the chemical or agent, azamethiphos² that can be discharged in 24-hour periods are varied as follows, subject to the following conditions, for the duration of this variation:

- (a) The Licensee must ensure that the total quantity of azamethiphos released in any 24-hour period does not exceed a quantity which is three times the individual amount listed in the Licences as being permitted for discharge within a 24-hour period.³
- (b) Subject to condition (n), the Licensee must ensure that a greater proportion of the fish at the fish farm site are treated with azamethiphos in the 24-hour period, than have been treated, or could have been treated, with the individual amount of azamethiphos listed in the Licences.
- (c) The Licensee must only rely on the terms of this variation where either:
 - (i) subject to condition (n), the individual amount of azamethiphos listed in the Licences is sufficient to enable treatment⁴ of at least one wellboat in 24 hours; or
 - (ii) if the individual amount of azamethiphos listed in the Licences is not sufficient to enable treatment of at least one wellboat in 24 hours,⁵ the total quantity of

² The marine licences of farms licensed to discharge azamethiphos include a condition limiting the maximum quantity of the chemical or agent that can be discharged in any 24-hour period.

³ Condition (a) does not refer to the azamethiphos dose (i.e., the concentration of the medicine in treatment waters). The condition is designed to enable more individual doses of azamethiphos to be administered in 24 hours and, hence, more of the fish at the fish farm site to be treated than could be with the individual amount of azamethiphos listed in the Licences. The resulting increased rate of discharge of azamethiphos will result in peak concentrations of azamethiphos residues in the environment around the farm being temporarily higher in the hours immediately following the treatments than if using only the individual amount of azamethiphos listed in the Licences. Around 96 hours after discharge, environmental concentrations are expected to be at, or approaching, the concentrations expected when discharging in compliance with the individual amount of azamethiphos listed in the Licences.

⁴ “Enable treatment” means that the required dose (concentration) of azamethiphos for an efficacious treatment can be reached in a well without exceeding the individual amount of azamethiphos listed in the Licences. Condition (n) describes the evidence that Licensees must be able to provide to demonstrate that the individual amount of azamethiphos listed in the Licences is sufficient to enable treatment of at least one well in 24 hours (i.e., that at least one well could have been treated in 24 hours in the absence of this variation).

⁵ Condition (c)(ii) refers to those farms with a licence to discharge azamethiphos in circumstances where the individual amount of azamethiphos listed in the Licences is too small to enable an efficacious dose of azamethiphos to be administered. Typically, these farms will not have been able to use their marine licences to discharge azamethiphos and will have been reliant on other means of controlling sea lice infestations. Licensed maximum 24-hour quantities are smallest where the receiving sea area has low dispersion characteristics and, hence, limited capacity to accommodate discharges of azamethiphos.

azamethiphos used in the treatment cycle does not exceed the total quantity for treating all the fish on the fish farm site calculated for the passing run in the version of the BathAuto modelling spreadsheet most recently submitted to SEPA⁶ by the Licensee

- (d) The Licensee must ensure that the cumulative quantity of azamethiphos released during a Treatment Cycle at the site, from both wellboats and from net pens, remains within the limits set in the conditions specified in (a) and (c)(ii) above.
- (e) The Licensee must only rely on the terms of this variation in circumstances where they are unable to continue to meet their previous licence conditions and should document the choices and actions they take. The record of these decisions must be made available for inspection on request by any person authorised by the Licensing Authority.
- (f) This variation does not apply to licences for wellboat discharge at fish farm sites within 1 km of any active shellfish farm.⁷
- (g) This variation does not apply to licences for wellboat discharge at fish farm sites within 3 km of any active shellfish farm unless the active shellfish farm is:
- (i) listed in Annex 1 and the finfish farm site at which the wellboat discharge is occurring is more than 1.8 km from the active shellfish farm; or
 - (ii) listed in Annex 1 and the finfish farm site at which the wellboat discharge is occurring is between 1 km and 1.8 km from the shellfish farm and plumes of azamethiphos resulting from the discharge will not reach the active shellfish farm; or
 - (iii) not listed in Annex 1 and the finfish farm site the at which the wellboat discharge is occurring is more than 1.8 km from the active shellfish farm and plumes of azamethiphos resulting from the discharge will not reach the shellfish farm.
- (h) Where g (ii) and g (iii) apply, the Licensee must provide evidence to the Licensing Authority that plumes from wellboats at fish farm sites will not reach an active shellfish farm. This evidence should include but not be limited to information concerning:
- (i) consideration of such factors as the residual direction of water flows at the finfish farm;
 - (ii) local tidal excursion distances in relation to the finfish farm at which the wellboat discharge occurs; and
 - (iii) the topography and bathymetry of the area.

⁶ This information is part of the information that was submitted by Licensees to SEPA, when the Licensees applied for the authorisation to discharge azamethiphos.

⁷ "Active shellfish farm" means farms shown as active on [NMPI](#) unless confirmed as non-active by the operator of the shellfish farm.

Any such evidence must be provided to the Licensing Authority at least two working days prior to any proposed treatment.

- (i) The Licensee must ensure that there is a minimum period of 8 days⁸ between the end of a Treatment Cycle on a fish farm site and the start of a further Treatment Cycle on that fish farm site.
- (j) The Licensee must, insofar as possible, ensure that action to control sea lice must be coordinated across suitable areas of sea, such as the relevant disease management area⁹, so as to minimise the risk of lice from other farms re-infecting treated farms with lice, and keep a record of such actions.
- (k) The Licensee must give consideration as to how efficacious the treatment with azamethiphos is likely to be and must keep records of these considerations. These records must be made available for inspection on request by any person authorised by the Licensing Authority.
- (l) The Licensee must:
 - (i) Notify the Licensing Authority two working days in advance of each instance in which the 24-hour quantity limit as originally provided in the licence is going to be exceeded;
 - (ii) Provide an explanation, specifically related to the effects of the COVID-19 outbreak, as to why it was necessary to exceed the 24-hour time limitation; and
 - (iii) Provide evidence that condition (g) was satisfied in line with the requirements of condition (h).
- (m) The Licensee must ensure if repeated treatments are required, the Licensing Authority is provided with a suitable explanation as to why this is necessary.
- (n) For the purposes of conditions (b) and (c)(i), the Licensee must record evidence, in form of previous treatment records or written confirmation from a vet, that the individual amount of azamethiphos listed in the Licences:
 - (i) has been used to treat at least one well in 24-hours prior to application of varied licence; or
 - (ii) is sufficient to enable treatment of at least one well in 24 hours.

This evidence must be made available for inspection on request by any person authorised by the Licensing Authority.

⁸ 8 days is half-life of azamethiphos in the environment used by SEPA in modelling bath treatments.

⁹ Details on disease management areas can be found [here](#).

- (o) The Licensee must, by the end of each calendar month, provide a written report¹⁰ to the Licensing Authority, the report should include but not be limited to information concerning:
- (i) the challenges that the Licensee is currently facing and expects to face as a result of the COVID-19 outbreak;
 - (ii) the reason why any such variation is required as a result of these challenges; and
 - (iii) the actions that the Licensee is taking to adapt to the effects of the COVID-19 outbreak, in order to reduce the need for increased discharges from wellboats.

Provided condition (d) above is met, conditions relating to restriction on simultaneous discharges of azamethiphos at the fish farm site are removed for duration of this variation.

Notifications are to be submitted to: ms.marinelicensing@gov.scot.

¹⁰ This report can take the form of a report from SSPO and BTA on behalf of their members

Annex 1. The Licences to which this variation applies

05815/17/0
06476/18/0
06835/18/0
06903/19/0
06904/19/0
06905/19/0
06913/19/0
06914/19/0
06915/19/0
06916/19/0
06929/19/0
06930/19/0
06931/19/0
06932/19/0
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06941/19/0
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06944/19/0
06945/19/0
06946/19/0
06947/19/0
06950/19/0
06951/19/0
06957/19/0
06958/19/0
06959/19/0
06960/19/0
07266/20/0
07267/20/0

Annex 2 list of shellfish farm locations				
<i>Please note, there may not be an active shellfish farm at all of the locations listed. Whether a farm is active should be checked with reference to NMPI.</i>				
No.	Local authority area	Management area	Location	
			Easting	Northing
1	Argyll and Bute	Tuath, na Keal	142900	740200
2	Argyll and Bute	Tuath, na Keal	135400	741700
3	Argyll and Bute	Tuath, na Keal	135300	740600
4	Argyll and Bute	Tuath, na Keal	137100	740300
5	Argyll and Bute	Tuath, na Keal	147500	739100
6	Argyll and Bute	Fyne	216400	709900
7	Argyll and Bute	Fyne	186400	672000
8	Argyll and Bute	Fyne	187600	671000
9	Argyll and Bute	Fyne	191800	683500
10	Argyll and Bute	Fyne	195300	691800
11	Argyll and Bute	Seil Sound to Loch Craignish	177100	719400
12	Argyll and Bute	Seil Sound to Loch Craignish	178100	718200
13	Argyll and Bute	Seil Sound to Loch Craignish	178500	695300
14	Argyll and Bute	Loch Spelve	165900	725800
15	Argyll and Bute	Loch Spelve	170700	727300
16	Argyll and Bute	Linnhe, Firth of Lorne, Sound of Mull and Loch Sunart	151000	755500
17	Argyll and Bute	Linnhe, Firth of Lorne, Sound of Mull and Loch Sunart	195900	734300

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18	Argyll and Bute	Linnhe, Firth of Lorne, Sound of Mull and Loch Sunart	187300	739100
19	Argyll and Bute	Linnhe, Firth of Lorne, Sound of Mull and Loch Sunart	190600	742200
20	Argyll and Bute	Linnhe, Firth of Lorne, Sound of Mull and Loch Sunart	181500	726600
21	Argyll and Bute	Linnhe, Firth of Lorne, Sound of Mull and Loch Sunart	197400	744600
22	Argyll and Bute	Linnhe, Firth of Lorne, Sound of Mull and Loch Sunart	194800	743200
23	Argyll and Bute	Linnhe, Firth of Lorne, Sound of Mull and Loch Sunart	187600	745500
24	Argyll and Bute	Linnhe, Firth of Lorne, Sound of Mull and Loch Sunart	204700	736300
25	Argyll and Bute	Linnhe, Firth of Lorne, Sound of Mull and Loch Sunart	151900	755000
26	Argyll and Bute	Linnhe, Firth of Lorne, Sound of Mull and Loch Sunart	151400	754300
27	Argyll and Bute	Linnhe, Firth of Lorne, Sound of Mull and Loch Sunart	182400	730000
28	Argyll and Bute	Loch Caolisport	175300	675500
29	Argyll and Bute	Kyles of Bute	205200	682200

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30	Argyll and Bute	Kyles of Bute	206000	680500
31	Argyll and Bute	Gigha	165700	652200
32	Argyll and Bute	Gigha	165600	650000
33	Argyll and Bute		135700	689700
34	Argyll and Bute		185800	723500
35	Argyll and Bute		129600	670400
36	Argyll and Bute		140900	753400
37	Argyll and Bute		175300	619900
38	Argyll and Bute		145500	725800
39	Argyll and Bute		140700	754400
40	Argyll and Bute		200700	678300
41	Argyll and Bute		150800	729100
42	Dumfries and Galloway		205500	565500
43	Highland	Linnhe, Firth of Lorne, Sound of Mull and Loch Sunart	168500	763400
44	Highland	Linnhe, Firth of Lorne, Sound of Mull and Loch Sunart	171500	762700
45	Highland	Linnhe, Firth of Lorne, Sound of Mull and Loch Sunart	203800	778200
46	Highland	Linnhe, Firth of Lorne, Sound of Mull and Loch Sunart	214700	761600
47	Highland	Linnhe, Firth of Lorne, Sound of	199800	777800

		Mull and Loch Sunart		
48	Highland	Linnhe, Firth of Lorne, Sound of Mull and Loch Sunart	195900	759600
49	Highland	Linnhe, Firth of Lorne, Sound of Mull and Loch Sunart	206300	777300
50	Highland	Moidart	164300	772000
51	Highland	Moidart	165800	773200
52	Highland	Moidart	160900	769800
53	Highland	Moidart	162800	770900
54	Highland	Torridon	173000	860400
55	Highland	Torridon	186700	854900
56	Highland	Torridon	186000	854700
57	Highland	Carron, Kishorn, Alsh, Duich	171100	837300
58	Highland	Carron, Kishorn, Alsh, Duich	183400	839100
59	Highland	Nevis	178500	794800
60	Highland	Nevis	177800	793300
61	Highland	Ailort	172300	779900
62	Highland	Ailort	173100	779200
63	Highland	Ailort	172600	783300
64	Highland	Sound of Raasay, Ainort, Scalpay	151900	832700

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65	Highland		180400	875000
66	Highland	Little Loch Broom	199700	894700
67	Highland	Ewe	185000	889300
68	Highland	Ewe	184400	891100
69	Highland	Laxford	221500	949200
70	Highland	Laxford	224000	954300
71	Highland	Laxford	221100	948600
72	Highland	Laxford	221100	951200
73	Highland	Laxford	224900	953400
74	Highland	Laxford	223500	955500
75	Highland	Laxford	224600	954300
76	Highland	Laxford	223900	955100
77	Highland	Laxford	220600	950400
78	Highland	Bracadale	139200	831400
79	Highland	Badcall, Chairn Bhain, Eddrachillis	224200	934000
80	Highland		148700	784700
81	Highland		157100	817800
82	Highland		164000	786300
83	Highland		168200	783900
84	Highland		166700	828000
85	Highland		168000	828000
86	Highland		166800	777900
87	North Ayrshire		219900	654300
88	North Ayrshire		203500	629800
89	Orkney	Central Orkney	349100	1008500
90	Orkney	Scapa Flow	332700	1003700
91	Orkney	Scapa Flow	348400	1000100
92	Orkney	Scapa Flow	348500	1000100
93	Western Isles	Loch Roag	113400	934400
94	Western Isles	Loch Roag	114000	932300
95	Western Isles	Loch Roag	109900	934200
96	Western Isles	Loch Roag	114900	933500
97	Western Isles	Loch Roag	115400	933900
98	Western Isles	Loch Roag	113800	932700
99	Western Isles	Loch Roag	112200	932600
100	Western Isles	Loch Roag	119100	933100
101	Western Isles	Loch Roag	114500	934300
102	Western Isles	Loch Roag	113200	932600
103	Western Isles	Loch Roag	112700	932100
104	Western Isles	Loch Roag	120000	932500

105	Western Isles	E Lewis	137700	924500
106	Western Isles	E Lewis	137300	924900
107	Western Isles	E Lewis	137600	924800
108	Western Isles	E Lewis	132000	920300
109	Western Isles	E Lewis	136700	921300
110	Western Isles	SE Lewis, E Harris	112500	892500
111	Western Isles	SE Lewis, E Harris	121500	911300
112	Western Isles	E North Uist	100900	879400
113	Western Isles	E North Uist	93900	870700
114	Western Isles	Ronay, Benbecula, N South Uist	84900	839100
115	Western Isles	South Uist	79900	827300
116	Western Isles	South Uist	78500	827700
117	Western Isles	Barra	74900	802600
118	Western Isles	Barra	73300	801900
119	Western Isles	Barra	73900	803100
120	Western Isles	Barra	72600	802400
121	Western Isles	Barra	72100	802900
122	Western Isles	Barra	75900	804400
123	Western Isles	Barra	70900	804700