

MARINE SCOTLAND ACT 2010, PART 4 MARINE LICENSING

LICENCE TO DEPOSIT ANY SUBSTANCE OR OBJECT IN THE SCOTTISH MARINE AREA

Licence Number: **MS-00008974**

The Scottish Ministers (hereinafter referred to as "the Licensing Authority") hereby grant a marine licence authorising:

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

to deposit any substance or object as described in Part 2. The licence is subject to the conditions set out, or referred to, in Part 3.

The licence is valid from **13 October, 2020** until **18 November, 2021**

Signed:

Anni Mäkelä

For and on behalf of the Licensing Authority

Date of issue 12 October, 2020

1. PART 1 - GENERAL

1.1 Interpretation

In the licence, terms are as defined in Section 1, 64 and 157 of the Marine Scotland Act 2010, and

- a) "**the 2010 Act**" means the Marine (Scotland) Act 2010;
- b) "**Licensed Activity**" means any activity or activities listed in section 21 of the 2010 Act which is, or are authorised under the licence;
- c) "**Licensee**" means Cooke Aquaculture Scotland Limited
- d) "**Mean high water springs**" means any area submerged at mean high water spring tide;
- e) "**Commencement of the Licensed Activity**" means the date on which the first vehicle or vessel arrives on the site to begin carrying on any activities in connection with the Licensed Activity;
- f) "**Completion of the Licensed Activity**" means the date on which the Licensed Activity has been installed in full, or the Licensed Activity has been deemed complete by the Licensing Authority, whichever occurs first;

All geographical co-ordinates contained within the licence are in WGS84 format (latitude and longitude degrees and minutes to three decimal places) unless otherwise stated.

1.2 Contacts

All correspondence or communications relating to the licence should be addressed to:

Marine Scotland
Licensing Operations Team
Marine Laboratory
375 Victoria Road
Aberdeen
AB11 9DB
Email: MS.Marinelicensing@gov.scot

1.3 Other authorisations and consents

The Licensee is deemed to have satisfied itself that there are no barriers or restrictions, legal or otherwise, to the carrying on of the Licensed Activities in connection with the licensed activity. The issuing of the licence does not absolve the Licensee from obtaining such other authorisations and consents, which may be required under statute.

1.4 Variation, suspension, revocation and transfer

Under section 30 (1) of the 2010 Act the Licensing Authority may by notice vary, suspend or revoke the licence granted by them if it appears to the Licensing Authority that there has been a breach of any of its provisions. For any such other reason that appears to be relevant to the Licensing Authority under section 30(2) or (3) of the 2010 Act. Under the 2010 Act variations, suspensions, revocations and transfers of licences are subject to the procedures set out in section 31 of the Act.

Under section 30 (7) of the 2010 Act, on an application made by a licensee, the Licensing Authority may vary a licence if satisfied that the variation being applied for is not material.

Under section 30 (8) of the 2010 Act, on an application made by the licensee, the Licensing Authority may transfer the licence from the Licensee to another person.

1.5 Breach of requirement for, or conditions of, licence

Under section 39 of the 2010 Act it is an offence to carry on a Licensable Marine Activity without a marine licence and it is also an offence to fail to comply with any condition of a marine licence.

1.6 Defences: actions taken in an emergency

Under section 40 of the 2010 Act it is a defence for a person charged with an offence under section 39(1) of the 2010 Act in relation to any activity to prove that –

the activity was carried out for the purpose of saving life, or for the purpose of securing the safety of a vessel, aircraft or marine structure ('force majeure'), and

that the person took steps within a reasonable time to inform the Licensing Authority as set out in section 40(2) of the 2010 Act.

1.7 Offences relating to information

Under section 42 of the 2010 Act it is an offence for a person to make a statement which is false or misleading in a material way, knowing the statement to be false or misleading or being reckless as to whether the statement is false or misleading, or to intentionally fail to disclose any material information for the purpose of procuring the issue, variation or transfer of a marine licence or for the purpose of complying with, or purporting to comply with, any obligation imposed by either Part 4 of the 2010 Act or the provisions of this licence.

1.8 Appeals

Under Regulation 3(1) of the Marine Licensing Appeals (Scotland) Regulations 2011 a person who has applied for a marine licence may by summary application appeal to against a decision taken by the Licensing Authority under section 71(1)(b) or (c) or (5) of the Act.

2. PART 2 – PARTICULARS

2.1 Agent

as per Licensee

2.2 Location of the Licensed Activity

Pegal Bay, Scapa Flow, Orkney, at a point alongside any cage at the fish farm located by the coordinates:

58° 51.658' N 03° 12.635' W

As shown in Annex Two.

2.3 Description of the Licensed Activity

To deposit in the Scottish marine area the chemical(s) or agent(s) from wellboats.

As described in application dated 21 November, 2019 and correspondence submitted in support of the application.

2.4 Descriptions of the substances or objects to be deposited

This licence authorises the deposit of the undernoted substances and objects required in connection with the licensed activity, subject to the maximum amounts as specified below:

Excis (1% w/v cypermethrin – cis 40 : trans 60)
ALPHA MAX or AMX (1% deltamethrin)
Salmosan or Salmosan Vet or Azasure (50% w/w azamethiphos)
Hydrogen peroxide

2.5 Contractor and Vessel Details

Vessels as per Annex One

3. PART 3 – CONDITIONS

3.1 General Conditions

3.1.1. The treatment of fish must be carried out in such a way as to minimise the deposit of chemical(s) or agent(s).

3.1.2. "*Force majeure*" may apply when, due to stress of weather or any other cause, it is necessary to deposit the chemical(s) or agent(s) at a location other than that specified in Part 2 of the Schedule because the safety of human life, or a vessel or vehicle, is threatened. If chemical(s) or agent(s) are deposited in an unauthorised area, full details of the circumstances must be immediately notified to the licensing authority (see also Part 1 of the Licence).

3.1.3. Under the authority of this licence, the deposit of chemical(s) or agent(s) is only permitted if the location described in Part 2, section 2.2 of the Schedule is an operational and stocked fish farm. Furthermore, the said deposit is only permitted in respect of the treatment of fish being reared at the fish farm site at the location described in Part 2, section 2.2 of the Schedule, at the time of deposit.

3.1.4. Only those persons acting on behalf of, and authorised by, the agent or the Licensee shall undertake the deposit activities.

3.2 Prior to the commencement of the Licensed Activity

3.2.1. The Licensee must notify the licensing authority, at least two working days in advance of starting the Licensed Activity, with the date and time of commencement of all activities undertaken under the authority of this licence and the product name and quantity of chemical(s) or agent(s) intended for deposit. Details of chemical(s) or agent(s) deposited must also be recorded and reported in accordance with Condition 3.3.5 of the licence.

3.2.2. The Licensee must provide the Master(s) of the vessel(s) employed to undertake the deposit activities with a copy of the licence. The Licensee must also ensure that copies of the licence and all other relevant documents, including the treatment procedure (dated August 2015) are available for inspection by any authorised Enforcement Officer at:

- a) the premises of the Licensee; and
- b) on board the vessel(s) employed to undertake the deposit activities

3.3 During the Licensed Activity

3.3.1. The Licensee must ensure that no dead fish are deposited to the water environment at any time. Any dead fish must be disposed of above the Mean high water springs in an appropriate manner.

3.3.2. The Licensee must ensure that deposits will only be carried out in accordance with the Treatment Procedure (dated August 2015) as provided with the application. Marine Scotland - Licensing Operations Team ("MS-LOT")

must be informed if alterations are made to the treatment procedure. Copies of the treatment procedure must be kept with copies of the licence.

3.3.3. Only those chemical(s) or agent(s) described in Part 2, section 2.4 of the Schedule (the authorised deposits) shall be deposited under authority of the licence and all associated tank/hopper washings must be deposited at the location specified in Part 2, section 2.2 of the Schedule.

3.3.4. The method of deposit must be:

Pumped discharge via pipe/hatches from Wellboat at a depth of surface to 3 - 5 metres below sea surface.

3.3.5. The Licensee must ensure that a log of operations is maintained and kept on board the deposit vessel(s) throughout each deposit activity, and be available for inspection by an authorised Enforcement Officer. The logs must be retained for a period of six calendar months following expiry of the licence.

For each deposit activity, the following information must be recorded:

- a) the name of the vessel;
- b) the name of the product and its active ingredient;
- c) the quantity (volume) of the product scheduled for deposit;
- d) the date, time and position of each deposit activity;
- e) the weather, including wind strength and direction, sea and tidal state throughout each deposit activity;
- f) the rate of discharge during each deposit activity, if appropriate, and the duration of each deposit activity if the rate of discharge is not constant, the maximum and mean rates of discharge must be indicated);
- g) report on each deposit activity, including details of any problems; and an explanation for any delays; and
- h) the signature of the Master at the foot of each page of each record.

The above information can be entered on the deposit vessel log of operation form. The Licensee must provide to MS-LOT at three monthly intervals or on request from MS-LOT, a copy of all or any part of the records specified above.

3.3.6. The Licensee must ensure that:

- a) subject to condition 3.3.6. b), the total quantity of cypermethrin as contained in the trade product Excis, deposited in any consecutive 3 hour period beginning at the time of the first release of Excis as part of any specific treatment, must not exceed 23.18 grams (this is equivalent to 2318 millilitres of Excis).

b) Cypermethrin, as contained in the trade product Excis, must not be deposited if cypermethrin or deltamethrin, formulated as AMX 10mg/ml concentrate solution for fish treatment or as ALPHA MAX marketed by Pharmaq AS, has been deposited at the site, from any source, in the previous 3 hours.

3.3.7. The Licensee must ensure that:

a) subject to condition 3.3.7. b), the total quantity of azamethiphos, as contained in the trade product Salmosan or Salmosan Vet or Azasure, deposited in any consecutive 24 hour period beginning at the time of the first release of Salmosan or Salmosan Vet or Azasure as part of any specific treatment, must not exceed 101.2 grams (this is equivalent to 202.4 grams of Salmosan, Salmosan Vet or Azasure).

b) Azamethiphos, as contained in the trade product Salmosan or Salmosan Vet or Azasure must not be deposited from a vessel simultaneously to any deposit of azamethiphos at the premises.

3.3.8. The Licensee must ensure that:

a) subject to condition 3.3.8. b), the total quantity of deltamethrin, formulated as AMX 10mg/ml concentrate solution for fish treatment or as ALPHA MAX marketed by Pharmaq AS, deposited in any consecutive 3 hour period beginning at the time of the first release of deltamethrin, formulated as AMX 10 mg/ml concentrate solution for fish treatment or as ALPHA MAX marketed by Pharmaq AS, as part of any specific treatment must not exceed 8.69 grams (this is equivalent to 869 millilitres of AMX of ALPHA MAX).

b) Deltamethrin, formulated as AMX 10mg/ml concentrate solution for fish treatment or as ALPHA MAX marketed by Pharmaq AS, must not be deposited if cypermethrin or deltamethrin, as contained in the trade product Excis, has been deposited at the site, from any source, in the previous 3 hours.

3.3.9. Hydrogen peroxide may be deposited at any time provided its actual use is recorded and reported in accordance with Part 3, section 3.3.5. of this licence.

3.3.10. In the event of the Licensee becoming aware of any changes to the information on which the issue of the licence was based, the licensing authority must be immediately notified of the details.

3.3.11. The Licensee must ensure that where any of the chemical(s) or agent(s) listed in Condition 3.3.6., 3.3.7. and 3.3.8. are also authorised for deposit to the water environment following bath treatment at the fish holding cages at the site described in Part 2, section 2.2 under an authorisation granted by Scottish Environment Protection Agency then the quantity of that chemical or agent deposited over the time period specified in the relevant condition by the method specified in Condition 3.3.4 and from the cages over the same time period must not exceed the total quantity specified in the relevant condition.

3.3.12. The Licensee must ensure that the chemical(s) or agent(s) listed above must only be deposited following treatment of fish within the vessel(s) listed in Part 2, section 2.4.

3.4 Upon Completion of the Licensed Activity

3.4.1. If a new licence is required, the Licensee must make an application at least fourteen weeks before the expiry date of this licence. This licence shall not continue in force after the expiry date of 18 November 2021

NOTES

1. You are deemed to have satisfied yourself that there are no barriers, legal or otherwise, to the carrying out of the licensed activity. The issue of the licence does not absolve the licensee from obtaining such authorisations, consents etc which may be required under any other legislation.

2. In the event that the licensee wishes any of the particulars set down in the Schedule to be altered, the licensing authority must be immediately notified of the alterations. It should be noted that changes can invalidate a licence, and that an application for a new licence may be necessary.