

Our Ref: F0191091

If telephoning ask for:

11 November 2019

Dear

REQUEST FOR INFORMATION

Thank you for your request, received by SEPA on 23 October 2019.

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.

For ease of reference, your request is replicated below together with our response.

- [1.] *Please provide information on the discharge of salmon farming well boats since 1 January 2018.*
- [2.] *Please include details, maps, photos, grid references, licences and any other information relating to where, when, what and how salmon farming well boats discharge their effluents.*
- [3.] *For example, there is apparently a marked/designated area off Oban where discharges take place. Please provide information relating to any designated places around Scotland where salmon farming well boats are permitted to discharge effluents.*
- [4.] *Please provide information in relation to what quantities of effluent are discharged - including any data on discharges of toxic chemicals, diseased waters and other materials.*
- [5.] *Please include any correspondence, emails, Cabinet Briefings, data, sampling results, testing and other information relating to salmon farming well boat discharges since 1 January 2018.*

We confirm that SEPA does not hold the requested information in 1-5 above. This information is therefore excepted under Regulation 10(4)(a) of the EIRs. The text of which is reproduced below;
(4) A Scottish public authority may refuse to make environmental information available to the extent that:-



Chairman
Bob Downes

Chief Executive
Terry A'Hearn

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(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.

Under the terms of Regulation 9 of the EIRs, SEPA has a duty to provide advice and assistance, we advise that well boats are licenced by Marine Scotland. In accordance with Regulation 14(1)(b) of the EIRs, we advise you to contact Marine Scotland directly for this information. The contact details are; Marine Scotland Mailpoint 11 1B South Victoria Quay, Edinburgh, EH6 6QQ

marinescotland@gov.scot

<https://www.gov.scot/about/contact-information/how-to-request-information/>

[6.] Please include any information relating to CleanTreat and the treatment of well boats discharges including details of any meetings and correspondence with Benchmark and other companies. Please include information relating to "high level talks to facilitate trials of the [CleanTreat] system in Scotland".

SEPA holds a small amount of correspondence. This information is excepted under Regulation 10(5)(f) of the EIRs. The text of which is reproduced below;

(5) A Scottish public authority may refuse a request to make environmental information available to the extent that its disclosure would, or would likely to prejudice substantially-

(f) the interests of the person who provided the information where that person-

(i) was not under, and could not have been put under, any legal obligation to supply the information;

(ii) did not supply it in circumstances such that it could, apart from these Regulations, be made available; and

(iii) has not consented to its disclosure

The release of the information in question would be likely to prejudice substantially the third party. The Public Interest Test was carried out in relation to the information to be withheld under Regulation 10(5)(f) of the EIRs. In this case, we recognise that Regulation 10(2)(b) requires SEPA to apply a presumption favour of disclosure. The public interest in favour of disclosure is outweighed by that in favour of withholding. Requests for such information are considered by SEPA on a case by case basis. In this case, it was determined that the public interest would not be served by the release of the information at this time.

We confirm that SEPA has attended meetings with Benchmark on 9 October 2018, 11 April 2019, 30 May 2019, 20 September 2019 and 30 September 2019

If you are not satisfied with our response, you have up until 10 January 2020 to request a formal review from SEPA at:

Access to Information

SEPA

Strathallan House

Castle Business Park

Stirling

FK9 4TZ

Email: foi@sepa.org.uk

If you are still not satisfied, you can appeal to the Scottish Information Commissioner.

www.itspublicknowledge.info/appeal

Your unique reference number is F0191091. Please quote this in any future contact with us about your request.

If you have any queries in the meantime, please contact me.

Yours sincerely

SEPA Access to Information team

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/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.