

# Consultation on the marine fish farm charges

September 2020

Every day SEPA works to protect and enhance Scotland's environment, helping communities and businesses thrive within the resources of our planet.



We call this **One Planet Prosperity**

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## 1 Objective

This consultation document outlines the proposed changes in the SEPA charges for regulating marine pen fish farms and how you can respond to this consultation.

## 2 Why are we consulting?

There has been a significant change in the type of work SEPA has and will do in regulating the marine fish farm industry. This goes from how we assess the initial applications through to the way we monitor fish farms, audit the way operators manage their activities and directly inspect the site. We [consulted at the end of 2018 on our finfish aquaculture sector plan](#) on what we intended to do and this work then forms the basis for the changes in our work and therefore charges.

This is all part of our work to deliver our [One Planet Prosperity - Our Regulatory Strategy](#) . In particular how we will deliver our sector plans which “will focus on practical ways of delivering environmental, social and economic outcomes.” Our website clearly outlines how we are delivering on [One Planet Prosperity, including sector working](#).

This charging scheme consultation is intended to address historic under-recovery and to fund the additional work introduced by the new approach to regulating aquaculture which ensures a transparent science-based approach. We will continue to work with operators and stakeholders to ensure that we achieve the objectives of regulation whilst minimising the costs.

We are keen to support innovation by the industry to develop more sustainable approaches. These types of applications typically require considerably more resources. We will however manage these applications on this basis of the standard charges. Whilst ensuring adequate resource is in place to process such applications as quickly as possible so as to help the industry develop its ambitions to be more sustainable.

### How to respond

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You can respond to this consultation [online](#). As our offices are currently closed, please do not mail your response. You can email your responses on the proposal to:

[aquaculture.charges@sepa.org.uk](mailto:aquaculture.charges@sepa.org.uk)

Responses should be submitted to us by 20 November 2020.

### 3 Background on charging schemes

SEPA is required to fully recover our costs. The guidance which we have to follow in the Scottish Public Finance Manual and the Treasury (HMT) (Managing Public Money - HM Treasury). The managing public money document states:

“Charges for services provided by public sector organisations normally pass on the full cost of providing them. There is scope for charging more or less than this provided that ministers choose to do so, parliament consents and there is full disclosure.”

The figures provided in the consultation are subject to changes due to RPI changes which are taken at the end of September 2020 and are allowed for within the charging scheme.

### 4 Changes in application charges

It is our intention to continue to improve the process of determining permit applications.

This consultation on fees is intended to deliver the resources needed to enhance SEPA's levels of regulatory service to the industry and to communities so that we can make the determination quickly based upon the right information.

In 2016, SEPA introduced a revised charging scheme. This increased application fees for marine pen fish farms from £3,195 (adjusted by RPI increases) to £4,444 (farm over 50 tonnes). This equates to about six days regulatory work and 1.5 days of science input.

In June 2019, we introduced the [new regulatory framework for aquaculture](#) that transformed our approach to managing applications. The application process is divided into two parts.

- Pre-application process involves collecting the information required to support an application for a permit after engaging with the right people. This makes the application

process more effective in assessing the impacts on the environment along with improving the efficiency in delivery within suitable timescales.

- Application process involves the submission of the formal application supported by the information collected during the pre-application process. The charge for the application is paid at this stage. SEPA then processes the application, consults with interested parties and then decides whether it can issue a permit.

Historically we have faced concerns over the following aspects of obtaining a permit from SEPA for a marine pen fish farm.

- It took too long to determine licences.
- The process of collecting the information was unpredictable with operators having to go back and collect additional information.
- Communities with an interest in permit applications considered that they were only involved in consultation at the end of the process after all the information had been collected.
- Licences were too prescriptive, detailed and long.

The new regulatory framework has addressed many of these concerns.

- The development of a screening report at the beginning of the process allows issues to be identified early in discussions.
- The use of the screening report to engage with communities and allows the concerns of communities to be identified early in the process.
- The step-by-step process of collecting information will ensure that modelling or monitoring will provide the complete information needed to support an application.
- The new permit template is simpler and more straightforward.

SEPA is working to drive efficiency into the application process. In September 2019, we created a permitting function that is now processing applications. We believe that having staff dedicated to the production of permits generates efficiencies (previously staff had to manage applications as well all other regulatory duties).

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Despite these efficiencies, we recognise that the shortage of staff resources still slows the process of determination and it is to ensure cost recovery and to improve our ability to manage applications promptly that we are proposing to increase charges.

## 4.1 Pre-application

The more structured pre-application process includes the following steps.

- The operator submits a pre-application proposal.
- SEPA undertakes screening modelling and risk identification (based on the information provided) to predict potential impacts on the marine environment, provide feedback on the proposal and identify operator modelling requirements.
- The operator organises an engagement meeting with local communities and other stakeholders to discuss the proposal and the screening report. SEPA attends these meetings and uses the information gained from the discussions to update the screening report.
- The operator collects hydrographic data and undertakes modelling to address the issues raised by the screening report and feedback from local communities and stakeholders to assess local and wider marine risks associated with the proposal. SEPA works with the operator to ensure that the data collection and subsequently the modelling is planned correctly. There is frequently a complicated set of discussions between the operator and SEPA to ensure that the final models predict as accurately as possible the potential impacts from the farm.
- The operator undertakes baseline biological survey of the environment where the proposed farm will be situated. SEPA works with the operator to ensure that the baseline monitoring is planned appropriately and that the monitoring and the output of the monitoring delivers the required information on the site.
- The operator produces a SEPA environmental monitoring plan which provides the basis upon which the operator monitors the impact on the farm upon the environment. SEPA works with the operator to make sure that the plan will cover all the potential impacts caused by the farm.

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## 4.2 Application

Pre-application work is designed to ensure that any application contains sufficient information to enable SEPA to determine that application and that this is informed by discussions with interested parties.

Stages of the application process are:

- Operator submits application supported by the information collected as part of the pre-application.
- SEPA checks the information provided in application and discusses any issues with the operator.
- SEPA requires the operator to publicise the application and SEPA considers any feedback from interested parties.
- SEPA make the decisions on whether the application can be approved and if so what permit conditions to impose so as to ensure that the environment and the interests of other uses of the environment are protected. At this stage, SEPA is likely to conduct a dialogue with operators over the potential conditions.
- Finally, there is the opportunity to challenge SEPA's decisions for operators (via an appeal) and for other interested parties (via a call-in request to Ministers) on the back of a relevant representation.

## 4.3 New charges

Our step-by-step analysis of the resources required to manage the pre-application and application indicates that the current application fees do not recover the costs now associated with marine pen fish farms. These applications involve an unusual amount of environmental modelling and monitoring compared to normal applications to discharge effluent. This is because marine pen fish farms do not treat their effluent before discharge and depend upon the assimilative capacity of the environment.

The processing of marine pen fish farm applications is similar to major emissions to air where environmental modelling and monitoring is also required, and the proposed fish farm charges are therefore similar.

We propose to introduce three tiers of application:



- less than or equal to 50 tonnes;
- more than 50 but less than or equal to 1500 tonnes;
- more than 1500 tonnes.

Table 1 summarises the tiers of application charges. The increase in charges reflects the work required to determine an application. The application fees for pen fish farms (<50 tonnes) will remain unchanged.

SEPA rarely receives applications for farms less than 50 tonnes. These are typically experimental facilities or holding pens for non-salmonids. Most applications are now made for holding greater than 1500 tonnes of fish. The tonnage of fish farms has been progressively increasing since the introduction of the new framework in 2019 and we understand applications for farms at a larger scale (i.e. 5,000 tonnes) will become progressively more common. Applications for farms between 50 and 1500 tonnes are typically from the smaller fish farming companies. We think that it is important that charges are proportionate and do not disadvantage smaller companies whilst still cost recovering for the work required.

**Table 1: Outline of the application charges**

Description	Charge
Discharge from a marine pen fish farm: with a maximum biomass less than or equal to 50 tonnes.	£3,333 (Band 11)
Discharge from a marine pen fish farm: with a maximum biomass, greater than 50 tonnes and less than or equal to 1500 tonnes.	£25,553 (Band 17)
Discharge from a marine pen fish farm: with a maximum biomass greater than 1500 tonnes.	£32,000 (Band 18)

The new regulatory regime will change the dynamics of the application process. The pre-application process is designed to ensure that the operator collects the correct information required by SEPA. This will ensure that operators have a full understanding of the potential risks associated with the application when they reach the stage of making an application. It

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is only at that stage that the application fee is paid as part of the application. There will be no charge for pre-application work that do not result in an application being made.

If any application is received at the application stage that is not supported by the required information then we will send the application back and withhold £1,500. This administrative charge is part of the current charging scheme.

**Question 4 A: Is this an acceptable increase in the application fee given the scale of work SEPA has to undertake? Please explain your reasons.**

**Question 4 B: Do you have any other thoughts on how the application charges are applied?**

## **4.4 Variations**

The amount of work involved in varying a licence can range from the equivalent of a new application to changes that are merely administrative. It is important, given the new application fee that variations are subject to a proportionate charge. We therefore propose to grade the charge in proportion to the amount of work involved in an individual application to vary a licence.

### **Changes in biomass or cage configuration**

An application for which no screening assessment has been undertaken, that significantly (>10%) increases the scale of operations at a site or changes the environmental impact of the site (e.g. by changing cage configuration) will be charged as if it had been a new application except under the following circumstances.

An application will be considered a substantial variation, if the increase is less than 10%, or the screening assessment indicates that at least one of the following sources of information is required but was already available in a form suitable to support an application:

- new depomod model;
- marine model;
- environmental monitoring data.

An application will be regarded as a standard variation if the screening assessment indicates that no significant additional monitoring or modelling work was required to support the pre-application process.

An application will be treated as an administrative variation if the operator proposes a reduction in the biomass held on a site without any change to pen configuration.

### **Medicines**

Applications to introduce a new medicine, or to increase the use of an existing medicine, will be considered a substantial variation. This applies where a medicine requires a site-specific licence condition in order to protect the environment.

An application will be considered a substantial variation if an operator requires an addition to the permitted substances list outside of the normal cycle of review of the list. The permitted substances list covers low-risk substances (such as disinfectants used for foot-baths). Changing the permitted substances list requires that we vary all licences so that they refer to the updated list. We plan to update the list once a year.

An application will be considered an administrative variation if an operator requires an addition to the permitted substances list as part of the normal cycle of review of the list.

### **Variations of other licence conditions**

All other licence conditions will be considered standard variations unless the following applies.

Any application (including applications to change biomass, cage configuration or medicine use) which requires no technical assessments and only requires a change in the licence condition will be considered an administrative variation.

**Table 2: A summary of how the variation charges would be calculated.**

<b>Type of application</b>	<b>Charge</b>
Fish farm – application where the biomass and / or number of cages increases	100% of the application charges
Substantial variation or surrender application	70% of the total of the activity application charges

Standard variation, and application amendment	30% of the total of the activity application charges
Administrative application	Zero
Imposed application	The charge payable for an application for a permit plus an additional 25% of that charge.

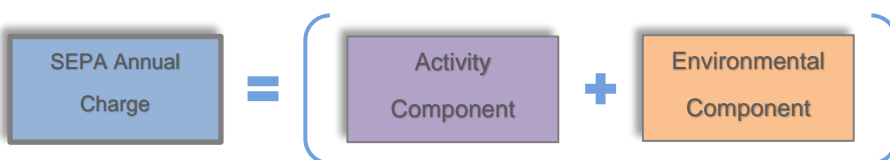
**Question 5: Are the rules for applications to vary permit conditions acceptable and clear? Please explain your reasons.**

## 5 Changes in annual charges for marine cage fish farms (MCFF)

Annual charges pay for the year-to-year work that SEPA undertakes to allow it regulate those activities that are covered by SEPA licences. These charges pay for:

- regulatory work (e.g. inspections and audits);
- science work (e.g. sampling and analysis);
- overhead costs (e.g. information management, legal support and HR).

The annual charge is derived from two components the ‘activity’ and the ‘environmental’ components. Some of work undertaken by SEPA is directly associated with a licence or a type of activity. This work is covered by the activity component. Other types of work (such as operation of SEPA’s boat) cover a range of purposes and these costs are allocated to a licence in proportion to the scale of the emission from a site. This type of work is covered by the environmental component.



The activity component applies to all licences. The environmental component only applies to larger activities where pollutants breach the thresholds in appendix B2 of the [Environmental Assessment Scheme](#). Approximately 62% of the fish farms have an environmental component of these it is primarily associated with the release of nutrients and sea lice treatments.

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## 5.1 Changes to activity component charge

The aquaculture industry has rapidly expanded over the last 20 years. In 2015, we consulted on a major review of charges. The new charges were phased-in over the subsequent five years. On average, this increased charges by 266% for fish farming. This increase was a consequence of the following two changes:

- Increase in regulatory charges to take account of the additional time directly allocated to fish farming (activity component).
- The allocation of SEPA's indirect costs in proportion to the pollutant load discharged (environment component).

Between 2016 and 2019, the additional funding allowed SEPA to substantially increase the resources that it allocated to marine aquaculture.

We are now proposing a new increase in charges to allow SEPA to deliver further improvements in the services that it provides and to manage the next phase of development and innovation in the industry. We are only reviewing the charges for marine cage fish farming. This means the main focus of the review is on the activity component of the annual charge.

## 5.2 Reasons for increase

Historically we have faced concerns from stakeholders about the following aspects of SEPA's regulation of marine cage fish farms.

- SEPA assessed local impacts and did not fully understand wider cumulative impacts.
- Monitoring was carried out by the industry and those who had concerns about the industry did not consider the SEPA role in assessing impact to be sufficient.
- SEPA did not adequately assess potential impacts such as nutrient enrichment or impacts upon commercial species such as wild fish and shellfish.
- Stakeholders wanted more clarity over the overall scale of aquaculture development that could be permitted (associated with an individual site or cumulatively).

We are addressing these concerns by developing a more transparent science-based approach which will increase the confidence in the regulatory regime, enhance Scotland's reputation and protect the environment.

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The new regulatory framework will address many of these concerns and is part of our sector planning work to deliver our one plant prosperity regulatory strategy.

- We are introducing more rigorous operator environmental monitoring requirements that are subject to a new quality assurance regime run by SEPA.
- We are developing a more extensive programme of SEPA sampling involving unannounced visits and the assessment of cumulative impacts.
- We are developing new techniques that will enhance our ability to monitor the environment (such as eDNA and hard substrate monitoring).
- We intend to expand our ability to monitor the condition of commercially important species potentially affected by farms.
- We intend to develop a more transparent process of compliance assessment and enforcement to progressively improve the compliance record of the industry.
- We intend to support innovative projects which have the potential to reduce local impacts and global impacts (such as resource use and greenhouse gas emissions).
- We will develop, with other Scottish regulators, a common geographical framework that will help the industry plan and create a transparent means of deciding on the scale of impact that is appropriate in different parts of Scotland's coastal waters.

This proposal to increase charges is intended to fund these new areas of work and ensure adequate recovery of operational costs.

**Question 6: Have we identified the appropriate areas of new work that should be funded by an increase in activity charge? Please explain your reasons.**

We are determined not to merely add new tasks on top of existing obligations. As a consequence, we have been working to drive efficiencies in our work. Some examples of the estimated efficiencies include:

- We have reduced the analysis time for underwater visual footage. We are also moving a benthos biotope-based determination. These two revised assessment approaches represent a significant saving in staff time (initially estimated at >25%).
- We have agreed a reduction in the collection and analysis of benthic grab sediment samples for PSA (particle size analysis) for sample stations where both ecological and

chemical samples are taken. We estimate an analysis time saving in the order of at least 20%.

- To date reporting of SEPA compliance survey results for emamectin benzoate has been a manual process. We are currently working to develop the data assessment and reporting requirements within our data systems, this aims in the first instance to reduce the time spent compiling farm compliance reports for SEPA emamectin benzoate surveys by up to 75% for simple surveys.

### 5.3 Proposals for increasing the activity charge

Changing the activity component of the scheme for aquaculture involves identifying the costs that are directly associated with the industry. For example, company or site inspections, data returns, monitoring the mixing zone around farms and liaison /development work with the sector. We have assessed the resources that we will need to manage the industry over the next five years and this forms the basis of our charging consultation. This includes, for example, any additional work associated with wellboats. Some of these resource estimates are based upon rigorous workload planning statistics (time taken to undertake biological or chemical standards). Other areas (such as development and engagement costs) are based upon our best judgement of the resources that will be needed over the next five years.

Some additional costs are being absorbed and will not be recovered via the charging scheme. For example, SEPA will absorb the costs associated with the increased use of its boats and the additional work involved in monitoring the cumulative impacts of farms and other discharges.

Table 3 summarises the annual resource requirements in terms of full time equivalents (FTEs) for regulating marine pen fish farms.

**Table 3: Shows change of resources in FTEs directed to marine aquaculture since 2015.**

Annual resources supporting aquaculture (ROUNDED)	Historic resources (FTEs)	Predicted resources (FTEs)

	2015	2019	to 2025
Modelling services	1	3.4	4.1
Ecology services	2	12.2	16.8
Chemistry services	0.2	9.7	12.9
Regulatory services	8	8.3	9.9
Policy support	0.1	0.2	0.2
Total	11	33.8	44.0

As a result of our assessment, we consider that the activity component charge for an individual marine pen fish farm should increase from £3,798 to £7,309 for marine pen fish farms larger than 50 tonnes. We do not propose to charge the charge for very small fish farms (<50 tonnes) (except for any RPI increases).

This represents an overall increase in annual charges of 30% when combined with the environmental charge. The environmental charge will not change.

The increase in charges will raise an estimated additional £880k from the sector.

**Table 4: Proposed change in activity charge.**

Description	Existing charge	Charge
Discharge from a marine cage fish farm: with a maximum biomass less than or equal to 50 tonnes.	£2,525	£2,525
Discharge from a marine cage fish farm: with a maximum biomass greater than 50 tonnes.	£3,798	£7,309

Note the charge includes the retail price inflation (RPI) change for next year.



**Question 7: Is this an acceptable increase in the activity component charge? Please explain your reasons.**

## **6 Summary of questions**

**Question 4 A:** Is this an acceptable increase in the application fee given the increased work SEPA has to undertake? If not please could you explain your reasons.

**Question 4 B:** Do you have any other thoughts on how the application charges are applied?

**Question 5:** Are the rules for applications to vary permit conditions acceptable and clear? If not please could you explain your reasons

**Question 6:** Have we identified the appropriate areas of new work that should be funded by an increase in activity charge? Please explain your reasons.

**Question 7:** Is this an acceptable increase in the activity component charge? If not please could you explain your reasons.

If you are unable to provide your feedback via our consultation platform, please request a copy of our feedback form by emailing [aquaculture.charges@sepa.org.uk](mailto:aquaculture.charges@sepa.org.uk).