Consultation Response

Salmon Scotland

Environmental Performance Assessment Scheme (EPAS) - a fair way to report performance

Executive summary

Salmon Scotland is the trade body representing the Scottish salmon farming sector. Our response to Scottish Government's consultation represents the views of the sector. ***The proposed EPAS system is unfit for purpose in communicating the environmental compliance of licence holders. Its implementation will fail to accurately represent the sector's historically high compliance, damaging public perception and stakeholder confidence. It will add a layer of significant confusion and lack of clarity for stakeholders who use the scheme to understand the performance of businesses. This scheme should not proceed without significant revision.*** Our full, detailed response follows this summary. It includes the following key points (provided in the order they appear within our response):

- Our sector requires a strong and robust, public facing means to demonstrate licence compliance. But EPAS moves significantly beyond that and the inclusion of fish farming in this inherently more complex system, requires justification – indeed as a point of principle and fairness, reasoning is required for all sectors that are included or excluded
- The proposed EPAS system moves all sectors away from understanding and narrating on environmental compliance to a more diverse and subjective assessment of performance against metrics that may have little or no direct link to environmental harm
- The wide-ranging remit of the EPAS system incorporates many nuances (particularly apparent for fish farming) and sector/application specific interpretations of compliance and its measurement, many of which are not acknowledged in the framework or explained in the consultation material.
- There is a lack of clarity regarding the system's capacity to adapt flexibly to accommodate evolving sector operational practices, or nuances within the compliance framework for salmon farms.
- This rigidity prevents the system from resolving minor disagreements internally, instead mandating a formal appeals process for seemingly minor misalignments.

- The system would unfairly highlight non-compliance, creating a skewed, negative public perception of the fish farming sector Its Implementation would be damaging to public perception and could have significant repercussions for buyers. Therefore, this communication framework cannot be implemented as proposed.
- It is imperative that action plans be put in place to ensure SEPA's current timelines align with commitments made and that they be accountable for delays in processing compliance assessments. Public transparency in this is critical to ensure confidence in the system and in the farms / sectors being assessed
- Appendix 3.4 includes several criteria for which a "major non-compliance" classification would be disproportionate when assessed against likely risk to the environment. The Consultation document fails to adequately describe the criteria against which SEPA have determined which compliance failures should be classified as "major non-compliance"
- Compliance assessments should be undertaken by competent authorities. It is wholly inappropriate for SEPA to include the assessment of operational/engineering aspects of aquaculture sites.
- The integration of procedural non-compliance as a "major non-compliance" requires urgent and comprehensive review to ensure that the system accurately reflects environmental performance and does not unduly penalise operators for procedural issues.
- Financial non-payment does not inherently pose a risk to the environment and therefore should not be categorized as an environmental non-compliance within the EPAS framework.
- The volatility of real time compliance updating will fail to accurately reflect the consistently high levels of compliance that the sector demonstrates. It would also obscure genuine performance whilst undermining public and stakeholder confidence. We believe that shareholders will be left regularly confused as to the compliance status of a farm, at individual points in time but also, when considered over a more appropriate annual time period.
- SEPA's interpretation of "environmental harm," as applied to fish farming, is fundamentally flawed and demonstrates a significant regulatory overreach into areas SEPA is not competent to assess and that may be governed by other government departments.
- Further clarity is critically needed regarding the categorization of 'environmental events' specifically for aquaculture, including explicit connections to benthic compliance and the framework of existing consents.
- The absence of alignment between activities casts serious doubt on the appropriateness of such a unified regulatory assessment.

Background

The consultation provides an overview of SEPA’s proposals to replace the Compliance Assessment Scheme (CAS) with the Environmental Performance Assessment Scheme (EPAS). Fish farming is one of 14 sectors proposed for inclusion in the scheme (of a total of 22 sectors which SEPA regulates). The Scottish Salmon sector have long advocated for the introduction of a replacement to the CAS system since it was lost in SEPA’s cyber-attack in 2019 and we welcome the opportunity to engage in the consultation - Salmon Scotland’s response to these proposals is provided below.

It should be noted that many of the points we make in this response have been raised with SEPA previously, by both Salmon Scotland and sector representatives, through sector and multi-stakeholder engagement sessions.

It's highly regrettable that SEPA engaged with the industry so late in the EPAS scheme's development. This delayed engagement has resulted in an undeniably complex system, which the consultation documents and supporting materials fail to adequately clarify. The industry believes the system has become detached from its core purpose of assessing environmental compliance. Instead, it appears to primarily **evaluate adherence to SEPA's internal procedures rather than assess compliance**. If implemented, the system will cause significant confusion amongst stakeholders and have an immediate, negative impact on the perception of the sector and existing relationships with retailers and other stakeholders.

We firmly believe the proposals, as currently presented, contain significant issues and fundamentally cannot be progressed. Specifically, the proposed format will **not facilitate clear and effective communication of compliance**, and it introduces a **biased compliance regime** that disproportionately affects our producing members. We contend that the scheme, in its current form, is too intricate to effectively convey the crucial nuances of SEPA's environmental compliance. Therefore, we strongly recommend a **pause in implementation** until these fundamental concerns can be thoroughly addressed, and a more workable solution developed through effective collaboration, focused around the 14 points below.

1. Premise

SEPA regulates discharges from aquaculture activities, which for salmon farming specifically includes organic waste, licenced veterinary medicines and small quantities of biocides and other compounds. SEPA itself acknowledges that regulating these discharges for aquaculture is uniquely complex and distinct from other sectors. Moreover, aquaculture operators engage with SEPA on an exceptionally high level, encompassing mandatory quarterly returns, compliance assessments, and numerous notifications. If the introduction of permit controls around sea lice progresses, this level of engagement will increase further with weekly sea lice reporting weeks 15 to 22. This scale of oversight is well beyond that required of other industries.

Despite this recognised complexity and extensive regulatory oversight and burden, aquaculture has been included in the proposed EPAS scheme as one of 14 designated activities out of the 22 relevant activities/sectors SEPA oversees. Crucially, no justification has been provided for why aquaculture discharges, with their unique regulatory demands, are included in the EPAS scheme while eight other activities have been excluded.

This seemingly arbitrary inclusion raises serious concerns about the fairness, proportionality, and overall effectiveness of the proposed EPAS scheme as it pertains to the fish farming sector. We urge SEPA to reconsider this decision and provide a transparent rationale for the selective inclusion of certain sectors within the EPAS scheme, particularly given the already robust and specialised regulatory framework governing fish farm discharges and the unique formats of engagement and regulation. To be clear, **our sector requires a strong and robust, public facing means to demonstrate licence compliance. But EPAS moves significantly beyond that and the inclusion of fish farming in this inherently more complex system, requires justification – indeed as a point of principle and fairness, reasoning is required for all sectors that are included or excluded.**

2. Replacement for CAS

CAS was considered an effective framework for the communication of compliance to the public and interested stakeholders. For salmon farming businesses it was used widely by third parties (including retailers), providing accessible information that was relevant to activities and markets. Although there were some challenges in the system, these were not insurmountable and through consultation could have been overcome, to provide an enhanced and appropriate system for assessing and demonstrating compliance. It is concerning that SEPA's proposed EPAS system does not incorporate this established application of the previous compliance scheme.

The positives of the CAS system included that it was clear and well understood by all. It also provided a mechanism for a clear demonstration of environmental performance. On the downside, it included an unnecessary focus on administrative non-compliance (without any clear link to potential environmental risks). Furthermore, whilst the annual assessment provided a well understood means of comparing compliance across a sector, the absence of any mechanism to update the annual compliance assessment, mid-year and following corrective action, was a significant failing that required attention.

Unfortunately, despite the opportunity presented through developing a replacement system, the proposed EPAS system has not built on the benefits and challenges identified in the previous CAS system, to develop something better. As proposed, it presents an overarching negative view of compliance with two of three categories ("Below expectations" & "Unacceptable") presenting a negative bias of compliance criteria. Additionally, the EPAS system doesn't allow for differentiation between compliant sites (removal of a graded categorisation, e.g. "Excellent", "good", etc.).

It moves all sectors away from understanding and narrating on environmental compliance to a more diverse and subjective assessment of performance against metrics that may have little or no direct link to environmental harm.

3. System specificity

Through developing a compliance framework for 14 different activities, SEPA's scheme is highly complex and difficult to fully understand and evaluate through the consultation materials provided. **This wide-ranging remit incorporates many nuances (particularly apparent for fish farming) and sector/application specific interpretations of compliance and its measurement, many of which are not acknowledged in the framework or explained in the consultation material.**

It is clear that some elements of the EPAS system (as it relates to fish farm discharges) do not fit well within the proposed EPAS structure, such as:

- Proposed weekly sea lice submissions,
- Multiple overlying compliance points (benthic, medicines, in-feeds) condensed into a single compliance metric
- Susceptibility to major non-compliance as a result of operational/environmental influences.
- Disproportionate measures of major non-compliance that are not linked to significant risk of environmental impact.

The consultation omits guidance on how the overarching compliance framework will be applied to fish farming. While this was briefly explained by SEPA representatives at a stakeholder engagement session on 05/06/2025, the detail of this presentation has not been included in the consultation material and there are outstanding concerns over how the scheme will address the specific requirements of fish farm discharge. Furthermore, without clear explanation within the consultation material, it is difficult to see how wider stakeholders will be able to fully understand the new system if rolled out.

4. System adaptability

The sector has consistently emphasised the critical need for flexible regulation, a necessity amplified by the accelerating introduction of new products and technologies to the market. It is evident that the proposed system has been developed and calibrated across a broad spectrum of SEPA-regulated activities, specifically to ensure comparability of compliance metrics. However, this benchmarking and standardisation inevitably results in a highly prescriptive and rigid framework. A key concern is the **lack of clarity regarding the system's capacity to adapt flexibly to accommodate evolving sector operational practices, or nuances within**

the compliance framework for salmon farms (e.g. mitigating factors). This inflexibility could stifle innovation and hinder effective regulatory oversight in the longer term.

Greater clarity is required on the ability of the EPAS system respond to variation and unforeseen challenges in an effective and timely manner.

5. System rigidity

The proposed system's rigid and inflexible approach to compliance assessment and lack of pragmatism is a critical flaw, especially when dealing with slight deviations from unnecessarily rigid compliance metrics. For example, an operator submitting a benthic footprint assessment, which exceeds the allowable area by 1%, would immediately trigger a major non-compliance classification, such a deviation would be well within accepted errors in sampling and analysis and would not, realistically, represent a significant risk of significant adverse harm to the environment. Similarly, unavoidable delays in data submission—like those for sea lice data due to adverse weather or difficulties in catching target fish—are overly strictly interpreted as major non-compliance.

This rigidity prevents the system from resolving minor disagreements internally, instead mandating a formal appeals process. This not only consumes significant resources for both SEPA and operators but also creates an adversarial environment and can be misrepresented when viewed within the public arena. Integrating built-in flexibility would enable a more collaborative approach to dispute resolution, permit more targeted use of limited resources and allow for a nuanced understanding of circumstances and reducing the need for costly appeals.

6. Bias toward non-compliance

The current scheme for assessing compliance in fish farming, which bundles various assessments into a single metric declaration of a farm's compliance doesn't accurately reflect the sector's overall performance, with a single non-compliance leading to a presentation of "unsatisfactory" or "below expectations" for that farm. In 2019, for example, 365 out of 414 sites were rated as "Good" or "Excellent" under the Compliance Assessment Scheme (CAS). A single, uncategorised, instance of non-compliance shouldn't automatically result in a negative overall compliance categorisation for an entire farm.

This proposed system would unfairly highlight non-compliance, creating a skewed, negative public perception of the fish farming sector. Given the numerous compliance points within fish farm consenting, such a framework is inappropriate and fails to effectively communicate an operator's true compliance or environmental impact. **Implementing this system would be damaging to public**

perception and could have significant repercussions for buyers. Therefore, this communication framework cannot be implemented as proposed.

7. Proposed SEPA responsibilities and resources

The scheme presented relies on efficiencies in SEPA procedures and the timely review and publication of results. In-fact the imposition of a compliance framework increases the requirement for the appropriate and timely review of compliance. Whilst unfortunate, is it an honest assessment to state that SEPA routinely fail to deliver a timely service, which, in part is due to resource challenges, but also arises from SEPA setting themselves (and sectors) targets which are ambitious and unachievable for the SEPA executive to deliver with the resources available.

Under the current system, our members report excessive timescales while awaiting consideration by SEPA, with average SEPA processing times of 155 days for some operator's benthic surveys, over five times the 30 day timeline SEPA outline. These frustrations have been outlined in multiple engagements with SEPA over recent years. The proposed system will add significant resource burden to both sectors and SEPA, and, using current processing timelines as a benchmark, it is highly unlikely that, for example, farms will have compliance reported based on contemporary benthic assessment.

It is noted that no assurances are provided within the consultation on SEPA's ability to process and publish the outcomes of compliance assessments, and that current performance will be improved. **It is imperative that action plans be put in place to ensure SEPA's current timelines align with commitments made and that they be accountable for delays in processing compliance assessments. Public transparency in this is critical to ensure confidence in the system and in the farms / sectors being assessed.**

8. Major non-compliance criteria

SEPA provide an extensive list of Major non-compliance criteria in Appendix 3.1. We have significant concerns that **the list includes several criteria for which a "major non-compliance" classification would be disproportionate when assessed against likely risk to the environment. The consultation document fails to adequately describe the criteria against which SEPA have determined which compliance failures should be classified as "major non-compliance**".

Throughout the period when SEPA used the previous CAS system, our sector has repeatedly raised concerns about the proportionality of compliance assessments. In particular the designation of specific issues as major non-compliance and their lack of demonstrable, direct link to environmental impact. A notable example being the submission of data returns, which has been a long-standing area of disagreement.

We were led to believe that in developing the new system, SEPA had committed to focus compliance assessment, and in particular the designation of major non-compliance, on issues that were fundamental to environmental protection, not administrative in nature. Unfortunately, these historical concerns have not been addressed within EPAS.

We have outlined some areas of concern with the listed major non-compliances, below:

- *Authorised medicines and substances used in aquaculture:*

The text presented here outlines "*Using medicine or substance not specified in the Authorisation*" This is a wide ranging definition and incorporates any substance that can be used, including substances that do not require assessment (fresh water). This broad definition should be revised to "*Using a medicine or substance not specified in the Authorisation, that requires authorisation*", focusing on the statement on authorised substances and medicines that have been deemed harmful.

- *Marine pen fish farm location:*

This will be assessed by handheld GPS. This is not considered appropriate for final review of compliance with documented accuracy of handheld GPS systems ~10m and anecdotally >50m. While handheld GPS should be used for indicative assessment, any potential non-compliance should be reviewed and determined by SEPA with higher accuracy systems (DGPS or similar).

- *Requirement to submit routine data (records, reports, data)*

The first instance of below standard reporting (missing submission, poor quality or partial submission) is considered a major non-compliance. This is considered wholly inappropriate and disproportionate when considering potential risk to the environment.
This metric is not considered relevant or proportionate to an assessment of environmental compliance and potential environmental harm. Whilst it is acknowledged that a failure to report in a timely manner is a failure, it is not appropriate to designate such an issue as a major non-compliance – especially in the first instance – there are understandable factors that can affect a company's ability to return data to expected timelines. The inclusion of these criteria in an assessment of environmental compliance undermines the integrity of the system proposed, miss-representing "unsatisfactory" or "below-expectation" compliance.
It is also unclear how SEPA plan to integrate acceptable reasons for omission of compliance assessment (weather, vet advice…). Such inclusions should be consulted on prior to implementation of the EPAS system.

- *Marine pen fish farm seabed surveys*

Previously, benthic surveys have been considered non-compliant as a result of operational reasons (transects intersecting shoreline or rocky substrate). The EPAS system must acknowledge (and be flexible to) the numerous, significant operational challenges that come with sampling in the marine environment – these are well known across all marine sectors. A flexible approach to compliance should be adopted in these situations, ensuring limitations with the compliance scheme is effectively communicated.

- *Missed sea lice count or sea lice data return not submitted or not of adequate quality:*

This condition is disproportionate when considering the likely risk that isolated non reporting poses to the environment. This low risk is well documented, including in correspondence from SEPA during the development of the Sea Lice Risk Assessment Framework.

The proposed condition requires 10 weekly returns to be submitted to SEPA, each year, for each licenced farm, within seven days of monitoring. Undertaking this commitment requires a significant amount of staff resource and is vulnerable to non-compliance as a result of staff absence or unfamiliarity. Furthermore, the current, proposed, CAR licence conditions relating to SLRF do not allow for non-reporting due to established, operational reasons (storms, medicine withdrawal etc.). We note that such reasons are accepted within current reporting to Scottish Government's Fish Health Inspectorate, which demonstrates unnecessary inconsistency within our regulatory landscape.

We also note that such reporting will place a disproportionate added burden on SEPA resources, which are already strained. It is difficult to see how such reporting, and thereafter potential major non-compliance assessment (and resultant remedial discussions) represent appropriate use of public funds.

We firmly believe that an isolated non reporting of lice counts cannot be considered an instance of environmental non-compliance in the first instance and a pragmatic approach to time pressured submissions should be integrated into EPAS.

- *Conditions covering management of site, infrastructure, technical competence, equipment or training:*

It is unclear what experience SEPA has in assessing site infrastructure and the competence of staff in a fish farm setting. **It is imperative that such assessments are undertaken by competent authorities and it is wholly inappropriate for SEPA to include the assessment of operational/engineering aspects of aquaculture sites**. We note that the Scottish Technical Standard has still not been introduced by the Scottish Government, but this represents a mechanism to address concerns around the technical specification of farms.

- *Non-payment of annual charges*

This is not considered appropriate and is discussed below.

9. Procedural non-compliance

The proposed system places disproportionate emphasis on operator engagement with procedural activities, many of which carry the risk of triggering a Major non-compliance. This structural feature shifts the EPAS scheme away from its core purpose—evaluating environmental impact—and instead redirects focus toward assessing internal reporting and compliance mechanisms within companies.

This shift introduces systemic bias, as it increases the likelihood of procedural non-compliance due to reporting or submission issues, regardless of actual environmental performance. As a result, operators with strong environmental outcomes may still be penalised due to administrative shortcomings. Moreover, the system currently equates certain procedural non-compliance metrics with Category 1 or 2 environmental events. This equivalence is fundamentally flawed and misrepresents the true nature of environmental compliance and impact to EPAS scheme stakeholders.

This **integration of procedural non-compliance requires urgent and comprehensive review to ensure that the system accurately reflects environmental performance and does not unduly penalise operators for procedural issues.**

10. Finance as an environmental non-compliance

The consultation proposes that non-payment of annual charges within 90 days constitutes a major non-compliance. While Salmon Scotland and the broader sector fully support and understand the need for timely payment of fees, we disagree that it should be included within EPAS, which relates to environmental performance. SEPA have not articulated how and why they believe that financial administration relates to environmental risk. Thus, it is critical to distinguish that **financial non-payment does not inherently pose a risk to the environment and therefore should not be categorized as an environmental non-compliance within the EPAS framework**.

11. Real time compliance update

Our sector has previously noted that the use of a single yearly assessment of compliance within the previous CAS system was rigid and caused notable issues for our sector. In instances where a farm was non-compliant, that company was unable to publicly demonstrate a return to compliance when it happened. Our sector has been supportive of a system that allows corrective actions to result in a reclassification of a compliance rating, during the year, before the annual assessment.

Whilst we accept SEPA’s attempt to develop a more iterative system, the proposed EPAS system is overly complex and fails to provide a pragmatic, clear and transparent approach.

The proposed real-time compliance update system, while seemingly straight forward and simplistic, is fundamentally unsuitable for the intricate regulatory environment of fish farming. This sector operates with a multifaceted compliance framework encompassing both environmental and non-environmental considerations, a complexity that renders simplistic, linear assessment models ineffective.

The system's inherent design will likely lead to constant fluctuations in published compliance rating, driven by overlapping submissions and the nuanced nature of fish farm regulation – we note at certain times of the year, our sector will be submitting data every week, such that compliance ratings could frequently in a short space of time. **This volatility will fail to accurately reflect the consistently high levels of compliance that the sector demonstrates**.

Furthermore, the aggregation of diverse compliance metrics into a singular, opaque "black box" is not fit for purpose. This approach inherently biases communication towards non-compliance, thereby misrepresenting the overall environmental stewardship within fish farming. **The implementation of such a framework would not only obscure genuine performance but also undermine public and stakeholder confidence. We believe that shareholders will be left regularly confused as to the compliance status of a farm, at individual points in time but also, when considered over a more appropriate annual time period.**

12. Environmental harm

SEPA’s definition of environmental harm is highly wide ranging and extends well beyond SEPA’s competence and legislative remit. As defined in EPAS, SEPA’s remit can be extended to supply chain environmental harm on any scale.

SEPA's interpretation of "environmental harm," as applied to fish farming, is fundamentally flawed and demonstrates a significant regulatory overreach into areas SEPA is not competent to assess and that may be governed by other government departments. It encompasses areas explicitly governed by other competent authorities – specifically, escapes (Marine Directorate), equipment failure (Marine Directorate/HSE/MCA), and biodiversity concerns (Local Authorities) – well beyond SEPA's established remit for discharge regulation to the marine environment. Integrating this broad definition into SEPA’s EPAS compliance assessment scheme creates an incoherent and potentially biased compliance regime that goes well beyond the activities SEPA regulates under existing CAR legislation. We assert that the definition of "environmental harm" within any compliance framework must align precisely with the activities the regulator is mandated to oversee. A relevant and defensible definition is essential for the success of the framework.

13. Environmental events

The current definitions of Category 1 and 2 environmental events in Appendix 4 lack specific relevance and clear reference to aquaculture operations and the assessment of benthic compliance. This omission makes it challenging for operators in fish farming operations to accurately interpret and apply these categories to their activities. Furthermore, the document does not clarify how existing licensed consents, such as those pertaining to mixing zone areas and sampling frequencies, integrate with or form the categorization of these environmental events.

To ensure both operators and SEPA can respond to environmental events associated with fish farming in a timely and efficient manner, **further clarity is critically needed regarding the categorization of 'environmental events' specifically for aquaculture, including explicit connections to benthic compliance and the framework of existing consents.**

14. Comparability

The Environmental Performance Assessment Scheme (EPAS) intends to assess fish farm activities through the same lens as engineering works, sewer networks, and radioactive waste. This parity is concerning, as these activities inherently demand varied reporting requirements and frequencies for effective compliance assessment. Although the consolidation of compliance assessment is suggested to enable direct comparison, the consultation document critically omits any discussion on how EPAS's application between these disparate systems has been aligned on fundamental concepts, or how it has been benchmarked against their distinct regulatory burdens and potential environmental impacts. This **absence of alignment between activities casts serious doubt on the appropriateness of such a unified regulatory assessment**. Considering the significant regulatory burden already placed on fish farm-related discharges by SEPA, there's a strong apprehension that these regulated discharges will be unfairly disadvantaged by the proposed EPAS mechanisms, enduring a high volume of submissions, complex compliance metrics, and intense public scrutiny.

Conclusion

In conclusion, while the fish farming sector is highly supportive of SEPA establishing an appropriate replacement for the CAS system, the form and function of the proposed EPAS system presents significant shortcomings. Fundamentally the grouping of fish farm-related discharges with activities under SEPA's wider regulatory function is not appropriate without appropriate alignment and any benchmarking integrated within the scheme is fundamentally flawed.

We urge SEPA to pause the application of the EPAS system to fish farm-related discharges, and to work with the sector to revise the system's application to address the unique and complex needs of fish farm regulation.

Salmon Scotland is eager to leverage our extensive experience in compliance assessment (gained through maintaining the sector's Code of Good Practice and Label Rouge standards) to support in the development of an appropriate compliance assessment scheme. We want to collaborate with SEPA to develop a scheme that appropriately accommodates and communicates the complexity of SEPA's aquaculture regulation.