

## RESPONSE TO F0193236

### Request Timeline

Date	Status
17/04/2021	EIR Request received [statutory deadline 17/05/2021]
22/02/2022	EIR Response issued

### Requested Information

**Please provide any information on Imidacloprid (BMK08/Ectosan), CleanTreat and Benchmark since 8 June 2020.**

**Please include emails, reports, risk assessments, modelling results, surveys, photos, letters, Excel data and any other information in relation to Imidacloprid (BMK08/Ectosan), CleanTreat & Benchmark.**

**Please detail any meetings and online phone calls (e.g. Zoom) with Benchmark, SSPO, salmon farming companies, Scottish Government officials, SNH or any other parties in relation to Imidacloprid (BMK08/Ectosan), CleanTreat & Benchmark.**

### Response

We can confirm that we have handled your request under the terms of the Environmental Information (Scotland) Regulations 2004 (EIRs).

We apologise for the delay in providing this response.

SEPA Access to Information Team began working remotely on 17 March 2020 due to COVID-19. In addition, there was continued disruption due to a sophisticated criminal cyber-attack on Christmas Eve 2020 which have significantly affected SEPA's ability to respond to Access to Information enquiries. More information about SEPA's response and service status can be found here: <https://www.sepa.org.uk/about-us/cyber-attack>

**Please provide any information on Imidacloprid (BMK08/Ectosan), CleanTreat and Benchmark since 8 June 2020.**

**Please include emails, reports, risk assessments, modelling results, surveys, photos, letters, Excel data and any other information in relation to Imidacloprid (BMK08/Ectosan), CleanTreat & Benchmark.**

Following a search of our records, we have attached the following emails relating to imidacloprid/BMK08. The documents released have been redacted for personal data under Regulations 11(1) and 11(2).

Description	
<b>Substances:</b> Provided to SEPA by Institute of Aquaculture – University of Stirling for advice on proposed permitted substances list. These relate to a pre application discussion of CAR/L/1001024.	<ul style="list-style-type: none"> <li>• <a href="#">Substances for SEPA consents</a></li> </ul>
<b>Private Individual:</b> correspondence from a private individual.	<ul style="list-style-type: none"> <li>• <a href="#">Imidacloprid MRL approved in Europe - Scotland env modeller hired by Benchmark R Redacted</a></li> <li>• <a href="#">SEPA ordered by Commissioner to Disclose by 7 June R Redacted</a></li> <li>• <a href="#">The Guardian Novichok for insects may be approved for Scottish fish farms R Redacted</a></li> </ul>
<b>SEPA Board Question:</b> An internal response to a SEPA Board question	<ul style="list-style-type: none"> <li>• <a href="#">Official Business FW Board question related media response R Redacted</a></li> </ul>
<b>Benchmark, CleanTreat, SAIC Project:</b> Communication with Benchmark about CleanTreat in relation to a SAIC project to trial of the technology in Scotland to remove the anti-sea lice medicine, azamethiphos, at sites with an existing authorisation to discharge azamethiphos to coastal waters.	<ul style="list-style-type: none"> <li>• <a href="#">RE Catch up with Benchmark on CleanTreatSAIC project R Redacted</a></li> <li>• <a href="#">RE Project update R Redacted</a></li> <li>• <a href="#">RE SAIC contact person R Redacted</a></li> <li>• <a href="#">SEPA Benchmark Discussion R Redacted</a></li> </ul>

We can confirm we have no other emails, reports, risk assessments, modelling results, surveys, photos, letters, Excel data and any other information relating to imidacloprid.

We advise that there are further documents in scope of this request that are publicly available and easily accessible on the SEPA [Disclosure Log](#) which is available on the [SEPA website](#). You can search our Disclosure Log by entering a key search word in the Title box, or a reference number in the Reference box, and clicking on the filter icon 

Ref No.	Date	Related information available SEPA Disclosure Log
F0192621	27/11/20	<b>Finfish - Information on the use of Imidacloprid</b> Please provide information on the use of Imidacloprid (publicly known as Ectosan from December 2017 to November 2019 and then marketed by Benchmark as BMK08) since 1 January 2019. Please include any information that may have been omitted or deemed confidential via previous FOI requests. Please include information on any proposed, actual, illegal, legal, aborted, planned or unknown use of Imidacloprid in Scottish salmon farming. Please consider this a Freedom of Information request under the relevant FOI and Environmental Information regulations.
F0192362	05/10/20	<b>Finfish - Chemical use (BMK08 &amp; Ectosan/ Imidacloprid)</b> Please provide information on the use of Imidacloprid (publicly known as Ectosan from December 2017 to November 2019 and then marketed by Benchmark as BMK08) at the FAI Aquaculture marine laboratory in Ardtoe since October 2013. The FOI request with contextual information is attached here as a PDF and available online here Please therefore provide information including any licences, discharge consents, approvals, trials and any other documents relating to the use of Imidacloprid (Ectosan/BMK08) at Ardtoe since October 2013. Scottish Salmon Watch would like to ascertain if any use of Imidacloprid (Ectosan/BMK08) by Benchmark - via their "10-year" development of CleanTreat at Ardtoe - has been officially approved by the Scottish Government, SEPA, the VMD or another authority.

Ref No.	Date	Related information available SEPA Disclosure Log
F0191964	26/06/20	<b>Finfish - Chemical use (BMK08 &amp; Ectosan/ Imidacloprid)</b> [1] Could you please provide information on any scientific risk assessments of the ecosystem impacts of Imidacloprid (BMK08/Ectosan) in salmon farming? [2] What scientific research has SEPA conducted on the toxicity and environmental impact of Imidacloprid? [3] Could you please share any information you have detailing how Benchmark can magically make Imidacloprid disappear from wastewater effluent discharges? [4] What environmental effects have been considered in relation to trials (whether proposed, aborted, in-progress or completed) in Scotland? [5] What scientific research including ecological risk assessment has been conducted in relation to Imidacloprid remote discharges of effluent water in 'discharge zones'? [6] At what concentration is Imidacloprid being measured down to? [7] Has SEPA, VMD and/or the Scottish Government conducted any modelling of environmental impacts or any ecological risk assessments of Imidacloprid use in salmon farming? [8] Please therefore provide information on any scientific risk assessments of the ecosystem impacts of Imidacloprid (BMK08/Ectosan) in salmon farming since June 2016.
F0191802	18/05/20	<b>Formal Review of F0191735 Information on Imidacloprid (BMK08/Ectosan/D10 Aquatic Blast/CleanTreat)</b> Formal Review of F0191735 Information on Imidacloprid (BMK08/Ectosan/D10 Aquatic Blast/CleanTreat)
F0191735	15/04/20	<b>Information on Imidacloprid (BMK08/Ectosan/D10 Aquatic Blast/CleanTreat)</b> Please provide information on Imidacloprid (BMK08/Ectosan/D10 Aquatic Blast) including discharges and disposals via Benchmark's 'CleanTreat' since 2014. Background details on this FOI request are available online here - and attached as a PDF. Please therefore provide the information requested which may involved re-visiting previous FOI requests. Please consider this a formal request for information via the relevant FOI and Environmental Information regulations. Please provide the information electronically and/or online. Please provide a receipt of this FOI request.

**Please detail any meetings and online phone calls (e.g. Zoom) with Benchmark, SSPO, salmon farming companies, Scottish Government officials, SNH or any other parties in relation to Imidacloprid (BMK08/Ectosan), CleanTreat & Benchmark.**

We have carried out a search and confirm we have no record of any meetings and online phone calls (e.g. Zoom) with Benchmark, SSPO, salmon farming companies, Scottish Government officials, SNH or any other parties in relation to Imidacloprid.

Further information regarding the regulations/ exceptions applied to this information can be found below.

### Application of Regulations/Exceptions

#### Section 39(2)

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.

#### Regulation 6(1)(b) Publicly available & easily accessible

Where we have advised above that information is publicly available & easily accessible Regulation 6(1)(b) applies, the text of which is reproduced below.

*6(1) Where an applicant requests that environmental information be made available in a particular form or format, a Scottish public authority shall comply with that request unless- (b) the information is already publicly available and easily accessible to the applicant in another form or format.*

#### Regulation 9 – Advice and assistance

Regulation 9 – Advice and assistance Where we have issued additional information or advice this is provided in line with SEPA's duty to advise and assist under Regulation 9 of The Environmental Information (Scotland) Regulations 2004.

#### Regulation 10(4)(a) – Information not held

Where we have advised above that SEPA does not hold this information it is excepted under Regulation 10(4)(a) of the Environmental Information Regulations 2004. The text of which is reproduced below;

*(4) A Scottish public authority may refuse to make environmental information available to the extent that:-*

*(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.*

#### Regulation 10(4)(e) – Internal communications

We have meeting links as internal communications, therefore they have been excepted under Regulation 10(4)(e) of the EIRs. The text of which is reproduced below.

*10(4) A Scottish public authority may refuse to make environmental information available to the extent that (e) the request involves making available internal communications.*

The Public Interest Test was carried out in relation to the information to be withheld under Regulation 10(4)(e) of the EIRs. The withheld information consists of links to join meetings which were only intended for use by employees. The public interest in favour of disclosing the information is outweighed by the public interest in favour of maintaining the exemption.

#### Regulation 11(1) and 11(2) – Personal data

Personal data relating to SEPA staff and private individuals has been redacted from the released documents in accordance with Regulation 11(2) of the EIRs and Data Protection Principles. SEPA has not withheld complete documents which contain such personal data and have released all other information within the document.

### **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/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.