



To: Director of Marine Scotland: [directormarinescotland@gov.scot](mailto:directormarinescotland@gov.scot)

Date: 9 April 2020

Subject: Review of FOI request re. disease testing of Scottish salmon (including ova) ([FOI-2020-00018313](#))

Please consider this a formal review request re. [FOI-2020-00018313](#) which was [replied to by the Scottish Government on 2 April 2020](#).

Please see below for the original [FOI request dated 28 February 2020](#). The FOI request and FOI reply by the Scottish Government dated 2 April 2020 are detailed via: [FOI Reveals Virus-Laden Salmon Slip Net & Into Scottish Waters](#)

In summary, the Scottish Government's refusal to provide information relating to Marine Scotland Science's commercial testing service on behalf of third parties since 1 January 2019 in relation to ISA, CMS, AGD, *Pasteurella skyensis*, Salmon Gill Poxvirus, Complex Gill Disease, Pancreas Disease and other diseases, pathogens and viruses (and PRV/HSMI since 24 March 2019) is unreasonable and illogical based upon the Scottish Government's previous disclosure of information via [FOI/19/00882](#).

In other words, the Scottish Government provided information in relation to a similar FOI ([FOI/19/00882](#)) request in 2019. The scope of [FOI-2020-00018313](#) in 2020 is wider in terms of the diseases, pathogens and viruses identified but to now refuse information on PRV/HSMI when it was provided last year is a change in FOI policy which has not been justified.

Scottish Salmon Watch therefore asks the Scottish Government to reverse your FOI refusal and provide the information requested.

On 4 June 2019, the Scottish Government disclosed information via [FOI/19/00882](#) in relation to Piscine Reovirus (PRV) and Heart & Skeletal Muscle Inflammation (HSMI) since 1 January 2018. The Scottish Government disclosed information via an Excel spreadsheet.



[Fol-19-00882 - Annex 1 - Commercial testing results - PRV](#)

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1	Date of Testing	Pathogen	Test	Result (Positive)	25	17/04/2018	PRV	QPCR	0 of 10
2					26	25/04/2018	PRV	QPCR	0 of 2
3	10/01/2018	PRV	QPCR	10 of 11	27	25/04/2018	PRV	QPCR	0 of 1
4	24/01/2018	PRV	QPCR	0 of 1	28	25/04/2018	PRV	QPCR	6 of 6
5	30/01/2018	PRV	QPCR	0 of 8	29	02/05/2018	PRV	QPCR	0 of 1
6	30/01/2018	PRV	QPCR	0 of 2	30	11/05/2018	PRV	QPCR	0 of 2
7	13/02/2018	PRV	QPCR	0 of 4	31	28/05/2018	PRV	QPCR	0 of 3
8	13/02/2018	PRV	QPCR	0 of 4	32	18/05/2018	PRV	QPCR	1 of 4
9	27/02/2018	PRV	QPCR	10 of 10	33	22/05/2018	PRV	QPCR	0 of 4
10	27/02/2018	PRV	QPCR	3 of 3	34	30/05/2018	PRV	QPCR	0 of 1
11	28/02/2018	PRV	QPCR	0 of 2	35	05/06/2018	PRV	QPCR	3 of 5
12	01/03/2018	PRV	QPCR	0 of 10	36	08/06/2018	PRV	QPCR	1 of 1
13	06/03/2018	PRV	QPCR	5 of 6	37	08/06/2018	PRV	QPCR	0 of 2
14	09/03/2018	PRV	QPCR	1 of 3	38	08/06/2018	PRV	QPCR	2 of 2
15	21/03/2018	PRV	QPCR	0 of 1	39	08/06/2018	PRV	QPCR	2 of 2
16	22/03/2018	PRV	QPCR	2 of 2	40	14/06/2018	PRV	QPCR	0 of 1
17	27/03/2018	PRV	QPCR	0 of 1	41	22/06/2018	PRV	QPCR	2 tests - no result
18	06/04/2018	PRV	QPCR	4 of 4	42	26/06/2018	PRV	QPCR	0 of 1
19	10/04/2018	PRV	QPCR	7 of 7	43	02/07/2018	PRV	QPCR	0 of 3
20	10/04/2018	PRV	QPCR	5 of 5	44	04/07/2018	PRV	QPCR	2 of 3
21	12/04/2018	PRV	QPCR	0 of 10	45	10/07/2018	PRV	QPCR	0 of 1
22	12/04/2018	PRV	QPCR	3 of 5	46	13/07/2018	PRV	QPCR	7 of 7
23	13/04/2018	PRV	QPCR	0 of 30	47	19/07/2018	PRV	QPCR	4 of 4
24	17/04/2018	PRV	QPCR	0 of 10	48	19/07/2018	PRV	QPCR	5 of 5

49	19/07/2018	PRV	QPCR	0 of 3	73	20/09/2018	PRV	QPCR	0 of 10
50	24/07/2018	PRV	QPCR	1 of 4	74	20/09/2018	PRV	QPCR	0 of 1
51	25/07/2018	PRV	QPCR	0 of 4	75	26/09/2018	PRV	QPCR	2 of 5 - 2 no result
52	27/07/2018	PRV	QPCR	0 of 1	76	26/09/2018	PRV	QPCR	0 of 4
53	02/08/2018	PRV	QPCR	3 of 3	77	26/09/2018	PRV	QPCR	0 of 2
54	02/08/2018	PRV	QPCR	2 of 5	78	09/10/2018	PRV	QPCR	0 of 10
55	10/08/2018	PRV	QPCR	6 of 6	79	11/10/2018	PRV	QPCR	3 of 3
56	15/08/2018	PRV	QPCR	3 of 7	80	11/10/2018	PRV	QPCR	6 of 6
57	16/08/2018	PRV	QPCR	1 of 4	81	16/10/2018	PRV	QPCR	1 of 5
58	17/08/2018	PRV	QPCR	3 of 5	82	20/10/2019	PRV	QPCR	3 of 3
59	24/08/2018	PRV	QPCR	6 of 6	83	30/10/2018	PRV	QPCR	1 of 1
60	29/08/2018	PRV	QPCR	0 of 1	84	31/10/2018	PRV	QPCR	2 of 2
61	29/08/2018	PRV	QPCR	3 of 3	85	31/10/2018	PRV	QPCR	4 of 4
62	29/08/2018	PRV	QPCR	6 of 6	86	13/11/2018	PRV	QPCR	3 of 3
63	29/08/2018	PRV	QPCR	5 of 6	87	13/11/2018	PRV	QPCR	6 of 6
64	30/08/2018	PRV	QPCR	2 of 2	88	16/11/2018	PRV	QPCR	0 of 3
65	30/08/2018	PRV	QPCR	1 of 3	89	16/11/2018	PRV	QPCR	0 of 3
66	31/08/2018	PRV	QPCR	1 of 1	90	20/11/2018	PRV	QPCR	3 of 3
67	04/09/2018	PRV	QPCR	2 of 3	91	20/11/2018	PRV	QPCR	0 of 1
68	11/09/2018	PRV	QPCR	1 of 4	92	22/11/2018	PRV	QPCR	0 of 9
69	14/09/2018	PRV	QPCR	3 of 3	93	27/11/2018	PRV	QPCR	2 of 3 - 1 no result
70	18/09/2018	PRV	QPCR	10 of 10	94	29/11/2018	PRV	QPCR	19 of 19
71	18/09/2018	PRV	QPCR	7 of 7	95	29/11/2018	PRV	QPCR	13 of 13
72	18/09/2018	PRV	QPCR	3 of 3	96	29/11/2018	PRV	QPCR	6 of 6

97	04/12/2018	PRV	QPCR	2 of 2
98	05/12/2018	PRV	QPCR	3 of 3
99	05/12/2018	PRV	QPCR	1 of 2
100	06/12/2018	PRV	QPCR	1 of 2
101	11/12/2018	PRV	QPCR	3 of 5
102	12/12/2018	PRV	QPCR	4 of 6 - 1 no result
103	18/12/2018	PRV	QPCR	5 of 5
104	18/12/2018	PRV	QPCR	2 of 3
105	18/12/2018	PRV	QPCR	4 of 5
106	18/12/2018	PRV	QPCR	4 of 5
107	19/12/2018	PRV	QPCR	10 of 10

This information was [published by Scottish Salmon Watch on 5 June 2019](#).

**Scottish Salmon Watch, 5 June 2019**

**Virus-Laden Farmed Salmon**

**- FOI reveals over half of samples test positive for Piscine Reovirus**



A FOI reply by the Scottish Government [published online yesterday](#) reveals that over half of all farmed salmon from Scotland (and other unnamed countries) tested positive for Piscine Reovirus (PRV) during 2018 and 2019. In advance of [today's Ministerial Statement on 'sustainable aquaculture' in the Scottish Parliament \(1.30pm\)](#), campaigners are challenging Scottish Ministers to test all salmon farms and are calling on supermarkets to inform shoppers what infectious diseases, pathogens and viruses are hiding in 'healthy' Scottish salmon.

To repeat from Scottish Salmon Watch's [FOI request of 28 February 2020](#):

Scottish Salmon Watch fully understands that (as [FOI/19/00882](#) explained):

"Commercial testing results relate to samples submitted from third parties and from the records held by Marine Scotland Science they cannot be linked to any particular source. The sources of these samples will relate to aquaculture sites both within and out with Scotland. The results will also include samples from transmission trials concerning experimental animals and facilities. Therefore, there are severe limitations with this data in terms of how it can be interpreted and portrayed. In summary the commercial testing data represents a number of test results from a number of samples which relate to a multitude of unidentifiable sources all of which have been submitted by third parties."

However, records submitted from third parties held by Marine Scotland Science are clearly available and are formally requested since 1 January 2019. If the Scottish Government

refuses to provide copies of the full records - citing 'commercial confidentiality' for example - Scottish Salmon Watch asks that the names of the third parties are at least provided.

As the Scottish Government explained via their [review of FOI/19/00882 dated 20 June and published on 5 July 2019](#):

"In the original response, to your request for information, it was stipulated that commercial testing results related to samples submitted from third parties and from the records held by Marine Scotland Science they cannot be linked to any particular source. This comment was made in relation to PRV samples, and whilst it is true in the main it does not relate to two of the sample submissions made. In this case, two of the samples were received directly from The Scottish Salmon Company. In all of the cases, we are unable to identify sites or specific sources of the samples received."

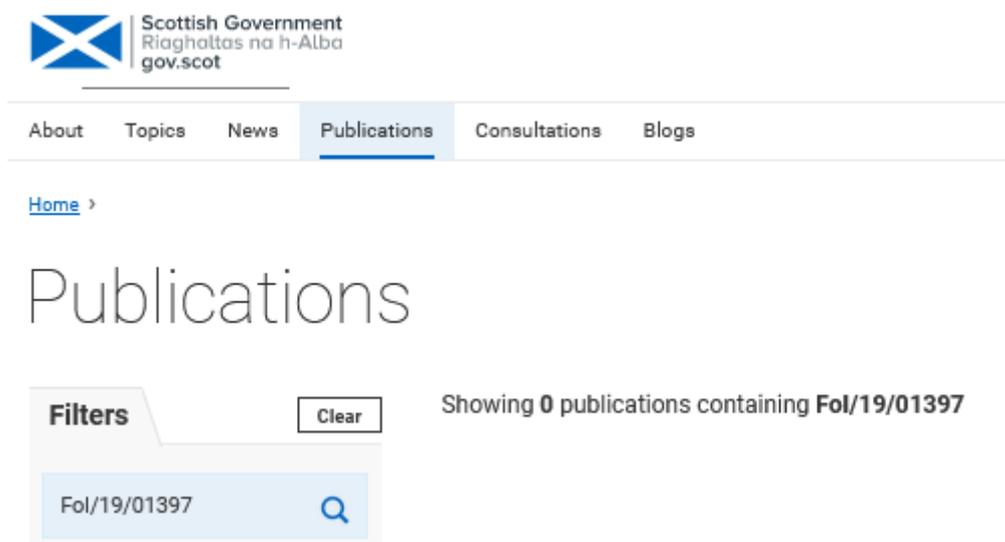
The Scottish Government's [FOI refusal letter dated 2 April 2020](#) includes:

Commercial testing results relate to samples submitted from various third parties. In the majority of cases, from the records held by Marine Scotland Science, the owner or client to whom those samples relate cannot be identified. Therefore, samples and their results cannot be linked to any particular

source. The sources of commercial samples not only relate to aquaculture sites both within and out with Scotland but may also include samples from transmission trials concerning experimental animals and facilities. Consequently, there are severe limitations in the interpretation of this data.

As previously explained in our response to request FoI/19/01397, a request submitted concerning information on commercial testing by salmon farming, we are unable to provide the information requested in this case. While our aim is to provide information whenever possible, in this instance an exception under regulation 10(5)(e) (substantial prejudice to confidentiality of commercial or industrial information) of the EIRs applies to the information in this case. The reasons why that exception applies are explained within Annex 2 of this letter.

Please note that a [search of the Scottish Government's FOI publications](#) finds no reference to FoI/19/01397.



The screenshot shows the Scottish Government website's 'Publications' page. At the top left is the Scottish Government logo with the text 'Scottish Government' and 'Riaghaltas na h-Alba gov.scot'. Below the logo is a navigation menu with links for 'About', 'Topics', 'News', 'Publications', 'Consultations', and 'Blogs'. The 'Publications' link is highlighted. Below the navigation menu is a 'Home' link with a right-pointing arrow. The main heading is 'Publications'. Below the heading is a search filter section. On the left, there is a 'Filters' label. In the center, there is a search input field containing the text 'FoI/19/01397' and a magnifying glass icon. To the right of the search input field is a 'Clear' button. To the right of the search input field, the text 'Showing 0 publications containing FoI/19/01397' is displayed.

Could you please provide a copy of the Scottish Government's response to FoI/19/01397?

Notwithstanding, the Scottish Government's reasons for refusal of [FOI-2020-00018313](#) are unreasonable. The Scottish Government [states in their 'context to the questions asked' document](#):



[FOI-202000018313 Information released - Context](#)

3 page PDF | 109.4 kB

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An exception under regulation 10(4)(e) of the EIRs (internal communications) also applies to a small amount of the information you have requested because it is internal communication between Scottish Government officials about diagnostic testing of samples from farmed fish.

This exception is subject to the 'public interest test'. Therefore, taking account of all the circumstances of this case, we have considered if the public interest in disclosing the information outweighs the public interest in applying the exception. We have found that, on balance, the public interest lies in favour of upholding the exception. We recognise that there is some public interest in release as part of open, transparent and accountable government, and to inform public debate. However, there is a greater public interest in allowing officials to discuss preliminary testing and novel diagnostic methods in a professional setting. The final results of the tests discussed in the correspondence being withheld have been published, and the discussion adds nothing to the public understanding of the presence of diseases or pathogens on Scottish salmon farms.

Scottish Salmon Watch strongly argues that any discussion of the tests clearly adds to the context and public understanding of the presence of diseases or pathogens on Scottish salmon farms. The public surely have a right to know what type of testing and consequently what level of data on diseases, pathogens and viruses in Scottish public waters is planned by the Scottish Government. Transparency is the hallmark of democracy.

It is the opinion of Scottish Salmon Watch that the Scottish Government is deliberately avoiding testing for various diseases, pathogens and viruses; tailoring the testing regime to systematically avoid unwanted results; and/or privately fencing off commercial testing via Marine Scotland Science rather than the Fish Health Inspectorate which publishes the damning disease data via '[Case Information](#)' thereby disseminating the data to the general public and informing public debate.

Please therefore reconsider this refusal in your review. Scottish Salmon Watch is fully prepared to test this argument via an appeal to the Scottish Information Commissioner.

Moreover, the Scottish Government [details reasons in Annex 2](#) for not providing information on commercial testing; namely:



[FOI-202000018313 Information released - Annexes](#)

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## ANNEX 2

### REASONS FOR NOT PROVIDING INFORMATION

#### An exception applies

An exception under regulation 10(5)(e) of the EIRs (substantial prejudice to confidentiality of commercial information) applies to the information you have requested. This exception applies because disclosure of this particular information would, or would be likely to, prejudice substantially the confidentiality of commercial information relating to the companies who have provided the samples, and thus cause substantial harm to their commercial interests. The companies who use our commercial testing service are most usually commercial veterinary companies. We also carry out some contract work for overseas interests, again not salmon farming companies themselves. Disclosing the results of samples submitted to us for analysis, with

the expectation that results would be confidential, is likely to lead to the loss of clients for the commercial companies using our service. Their clients are likely to be a) extremely disappointed that this information was disclosed and b) concerned that any future use of their diagnostic services may be disclosed. Release of the information is therefore likely to cause substantial harm to their interests. Further, substantial harm is likely to be caused by the release of this information to the salmon farming companies themselves. Some of the commercial work that we carry out relates to experimental trials, and does not have any relevance to the status of farmed fish. We are unable to separate out any such results from data originating from farmed fish samples. In addition, the testing is done to confirm the presence of pathogens, and results do not necessarily indicate the presence of disease. Disease diagnosis is not made from sample analysis, and pathogens are often present in clinically healthy fish. Any data from our commercial sampling activities cannot, therefore, provide a picture of the fish health status of the Scottish aquaculture industry, but has the potential to provide a misleading picture of the industry in Scotland because we are unable to provide any context to explain the results. This is likely to cause substantial harm to the aquaculture companies involved in Scotland.

This exception is subject to the 'public interest test'. Therefore, taking account of all the circumstances of this case, we have considered if the public interest in disclosing the information outweighs the public interest in applying the exception. We have found that, on balance, the public interest lies in favour of upholding the exception. We recognise that there is a public interest in disclosing information as part of open and transparent government, and that there is a strong public interest in providing information about salmon farming and fish health. However, there is a greater public interest in protecting the commercial interests of companies that help to ensure that Scottish farmed fish are as healthy as possible. There is also a public interest in allowing such analysis to be carried out by Marine Scotland scientists. This builds capacity and ensures best use of publicly funded diagnostic facilities, meaning that Marine Scotland are able to respond to emerging diseases in aquaculture and deal effectively with any disease outbreaks. The loss of this work to Marine Scotland, which is what would happen either through commercial veterinary companies losing clients or those same companies choosing to get future samples analysed elsewhere (probably out with Scotland), is not in the public interest. Further, the limitations of the information for building a picture of the health status of the aquaculture industry in Scotland, are such that there is a limited public interest in that information on its own merits.

Scottish Salmon Watch believes that these reasons are spurious, nebulous and erroneous. Commercial interests of [predominantly Norwegian-owned multinationals which control ca. two thirds of the 'Scottish' salmon farming industry](#) should not be placed ahead of the national interests of protecting Scotland's pristine waters; European-protected species and habitats; and iconic wild Scottish salmon.

Nevertheless the Scottish Government could still protect commercial confidentiality by releasing anonymous results and data as it supplied in 2019 via [FOI/19/00882](#). The Scottish Government even named The Scottish Salmon Company via their [review of FOI/19/00882 dated 20 June and published on 5 July 2019](#). Why the sudden change of stance in 2020?

Finally, Scottish Salmon Watch is confident that an appeal to the Scottish Information Commissioner will be successful in view of their [landmark ruling](#) via [Decision Notice 160/2019](#) in October 2019.

# Decision Notice 160/2019

## Import of Salmon ova

**Applicant: Scottish Salmon Watch (the Applicant)**

**Public authority: The Scottish Ministers**

**Case Ref: 201900504**

### Summary

The Ministers were asked about salmon ova imports since 1 January 2017. The Ministers provided the majority of the information to the Applicant, but withheld some information as commercially confidential. The Commissioner investigated and did not accept that the information was commercially confidential. He required the Ministers to disclose the withheld information to the Applicant. He also found that information disclosed during the investigation had been wrongly withheld earlier.

Please provide a receipt for this review request.

Thanks,

Don Staniford

Director, Scottish Salmon Watch



To: The Scottish Government: [ceu@scotland.gsi.gov.uk](mailto:ceu@scotland.gsi.gov.uk)

Date: 28 February 2020

Subject: FOI request re. disease testing of Scottish salmon (including ova)

Further to Scottish Salmon Watch's [letter to Scottish Ministers dated 24 February 2020](#) please consider this a formal FOI request.

Scottish Salmon Watch's [letter dated 24 February 2020](#) asked Scottish Ministers the following questions:

- How many salmon eggs imported into Scotland were tested for PRV and other viruses, pathogens and infectious diseases such as ISA?
- Has Marine Scotland Science conducted screenings of ova for PRV as an extra risk measure to avoid vertical transmission?
- What % of ova used by 'Scottish' salmon farms are infected with PRV, ISA and other diseases, pathogens and viruses?
- What % of imported ova were screened prior to entry into Scotland for infectious diseases, pathogens and viruses?
- How much of domestically produced ova is sourced from genetic material (ova, broodstock or smolts) sourced from overseas (e.g. Norway, Iceland and Ireland)?
- What % of domestically produced ova has been screened for infectious diseases, pathogens and viruses such as PRV and ISA?

Please consider these questions via the relevant FOI and Environmental Information Regulations.

Secondly, please provide information since 1 January 2019 in relation to testing of farmed salmon for diseases, pathogens and viruses.

As context:

In June 2019, the Scottish Government [disclosed documents via FOI/19/00882](#) on 4 June 2019 (with a [FOI review dated 20 June published on 5 July 2019](#)) in relation to PRV/HSMI.

Scottish Salmon Watch reported on the FOI disclosure on 5 June 2019 via "[Virus-Laden Farmed Salmon - FOI reveals over half of samples test positive for Piscine Reovirus](#)".

Scottish Salmon Watch's [FOI request filed on 24 March 2019](#) asked for information on Piscine Reovirus (PRV) and Heart & Skeletal Muscle Inflammation (HSMI) since 1 January 2018, to include:

- Data on sampling and testing for Piscine Reovirus (PRV) and Heart & Skeletal Muscle Inflammation (HSMI) in farmed salmon, seawater and processing plant effluent (and any other sampling and testing).
- How many samples of farmed salmon and water samples have been tested for Piscine Reovirus (PRV) and Heart & Skeletal Muscle Inflammation (HSMI).
- Any photos, emails, letters, copies of scientific papers and other information to and from the Marine Laboratory, salmon farming companies, veterinarians (e.g. Fish Vet Group), other Governments and other parties in relation to Piscine Reovirus (PRV) and Heart & Skeletal Muscle Inflammation (HSMI).

Please now provide an update of the same information i.e. from the 24 March 2019 (or perhaps 22 May 2019 as this seems to be last data entry via the Excel spreadsheet disclosed via [FOI/19/00882](#)) to 28 February 2020.

Please also include in this FOI request since 1 January 2019:

What % of farmed salmon are infected with PRV, ISA and other diseases, pathogens and viruses?

i.e. widen out one of the questions above in relation to ova to also include farmed salmon and widen out the scope of the PRV/HSMI FOI request to include ISA, CMS, AGD, Pasteurella skyensis, Salmon Gill Poxvirus, Complex Gill Disease, Pancreas Disease and other diseases, pathogens and viruses.

Scottish Salmon Watch understands that (as [FOI/19/00882](#) explained): "Sampling and testing is undertaken as part of Scotland's Aquatic Animal Health surveillance programme in line with the current regulations concerning aquatic animal health in Scotland. The results and outcomes of this surveillance is made publicly available through an active publication plan: <https://www2.gov.scot/Topics/marine/Fish-Shellfish/FHI/CaseInformation>".

The Scottish Government have since updated the 'Case Information' reporting via <https://www.gov.scot/collections/publication-of-fish-health-inspectorate-information/>

With 2019 'Case Information' reported via: <https://www.gov.scot/publications/fish-health-inspectorate-case-information-2019/>

Scottish Salmon Watch also understands that (as [FOI/19/00882](#) explained): "In addition to results relating to statutory surveillance, Marine Scotland Science also performs a commercial testing service on behalf of third parties."

Please therefore provide information relating to Marine Scotland Science's commercial testing service on behalf of third parties since 1 January 2019 in relation to ISA, CMS, AGD, Pasteurella skyensis, Salmon Gill Poxvirus, Complex Gill Disease, Pancreas Disease and other diseases, pathogens and viruses (and PRV/HSMI since 24 March 2019).

Via [FOI/19/00882](#) this data was presented via an Excel spreadsheet:



[Fol-19-00882 - Annex 1 - Commercial testing results - PRV](#)

XLSX | 16.7 kB

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Please present the data in the same format if possible.

And please include correspondence, letters, Cabinet Briefings, press/media lines, data, photos, emails and any other information since 1 January 2019 in relation to the testing of farmed salmon (including ova) for diseases, pathogens and viruses.

Scottish Salmon Watch fully understands that (as [FOI/19/00882](#) explained):

"Commercial testing results relate to samples submitted from third parties and from the records held by Marine Scotland Science they cannot be linked to any particular source. The sources of these samples will relate to aquaculture sites both within and out with Scotland. The results will also include samples from transmission trials concerning experimental animals and facilities. Therefore, there are severe limitations with this data in terms of how it can be interpreted and portrayed. In summary the commercial testing data represents a number of test results from a number of samples which relate to a multitude of unidentifiable sources all of which have been submitted by third parties."

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"In the original response, to your request for information, it was stipulated that commercial testing results related to samples submitted from third parties and from the records held by Marine Scotland Science they cannot be linked to any particular source. This comment was made in relation to PRV samples, and whilst it is true in the main it does not relate to two of the sample submissions made. In this case, two of the samples were received directly from The Scottish Salmon Company. In all of the cases, we are unable to identify sites or specific sources of the samples received."

Please consider this a formal FOI request via the relevant FOI and Environmental Information Regulations.

Please provide the information electronically.

Please provide a receipt for this FOI request.

Thanks,

Don Staniford

Director, Scottish Salmon Watch

