



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE

[REDACTED]
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Dear [REDACTED]

Thank you for your letter in follow-up to our December 3, 2019 teleconference on trade between the United States and Scotland and the U.S. Marine Mammal Protection Act (MMPA) Import Provisions. I apologize for the delay in providing you a response to your letter. We greatly appreciate your engagement, frank consultations, and efforts to fully implement the MMPA Import Provisions.

In your letter, you ask for clarifications and advice on several issues regarding the Scottish Government's (SG) regulations and policies on the interaction of seals and fish farms/fisheries. I will respond to each below.

First, you ask for confirmation that in order to satisfy the MMPA, the SG should amend the Marine (Scotland) Act 2010 ("the 2010 Act") to remove the ability to issue seal licenses to fish farms for the intentional take of seals for the protection of the fish or to prevent serious damage to the farms. The SG has proposed an administrative approach, where the SG would no longer issue seal licenses to fish farms beginning in 2021.

During Scotland's Technical Consultation, we advised the SG to remove or amend the provisions in the 2010 Act that allow for the issuance of licenses to kill, injure, or take live seals to protect the health and welfare of farmed fish (Section 110(1)(f)) and to prevent serious damage to fisheries or fish farms (Section 110(g)). The U.S. regulations implementing the MMPA section 118 provisions governing the incidental take of marine mammals in all U.S. commercial fishing operations, including U.S. marine aquaculture fisheries, include provisions that prohibit the intentional killing and serious injury of marine mammals.¹ The MMPA does not provide for the issuance of permits or licenses to aquaculture operations to intentionally kill seals to protect the health and welfare of farmed

¹ 16 U.S.C. 1387 (a)(5) Except as provided in section 101(c), the intentional lethal take of any marine mammal in the course of commercial fishing operations is prohibited. 16 U.S.C (c) [TAKING IN DEFENSE OF SELF OR OTHERS.] — It shall not be a violation of this Act to take a marine mammal if such taking is imminently necessary in self-defense or to save the life of a person in immediate danger, and such taking is reported to the Secretary within 48 hours. The Secretary may seize and dispose of any carcass. (d) [GOOD SAMARITAN EXEMPTION.] — It shall not be a violation of this Act to take a marine mammal if— (1) such taking is imminently necessary to avoid serious injury, additional injury, or death to a marine mammal entangled in fishing gear or debris; (2) reasonable care is taken to ensure the safe release of the marine mammal, taking into consideration the equipment, expertise, and conditions at hand; (3) reasonable care is exercised to prevent any further injury to the marine mammal; and (4) such taking is reported to the Secretary within 48 hours.

