



SCOTTISH EXECUTIVE

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Food and Agriculture Group

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Your ref:
Our ref:

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Dear Sir/Madam

APPLICATION OF THE EU ANIMAL BY-PRODUCTS REGULATION

As you will probably be aware the EU Animal By-Products Regulation, (EC) No 1774/2002, was adopted last October and will apply in Member States from 1 May 2003. The Regulation is directly applicable in Member States but needs some enforcement legislation to give effect to it in the UK. I am therefore writing to seek your views on our proposals for bring this Regulation into effect in Scotland. Parallel measures are being taken in England, Northern Ireland and Wales.

Given the volume of paper involved, the complexity of the issues, and the scope for further changes to emerge in Brussels, we plan to undertake this consultation in 3 phases. A draft Scottish Statutory Instrument and Regulatory Impact Assessment will be circulated to you all in the next few weeks for detailed comment. Furthermore, we also intend to consult separately on the extent and definition of the remote area derogation as it could apply in Scotland. At this juncture we are looking for your comments on our principle implementation proposals which are outlined in the enclosed consultation paper.

Please note that this entire consultation process will not however deal with the import provisions of the EU Regulation. These will be dealt with under the Products of Animal Origin (Third Country Imports) Regulations. However, it will incorporate our proposed controls on the composting of catering waste, on which we are currently undertaking a separate consultation. Changes made in the light of that consultation, which concludes on 12 February, will be reflected here.

The draft SSI will enable enforcement of the Regulation, by providing for powers of entry, offences and powers for Scottish Ministers to grant and withdraw approvals. We also propose to include a number of other provisions where we think it necessary to ensure that the provisions of the Regulation are complied with. For example, for some purposes we consider it necessary to specify the records that must be kept to demonstrate compliance with the requirements of the Regulation. We have also maintained the current system of approval for laboratories which carry out the microbiological testing requirements of the Regulation.



We have taken the opportunity to draft provisions on some issues that are frequently raised, in particular the mixing of Specified Risk Material with other animal by-products. Views on this and other highlighted issues, such as the frequency of sampling of compost and biogas residues for microbiological testing purposes, would be appreciated.

Because of its length, I am not attaching the EU Animal By-Products Regulation. A summary of its provisions is also enclosed. The full text of the Regulation can be accessed via the legislation section of the European Commission's website (<http://europa.eu.int/eur-lex>). The summary document also set out the main issues on which we are seeking views and provide an update on relevant EU discussions.

Detailed guidance on a number of issues is being prepared separately, in liaison with key interests. To date we have prepared draft guidance notes on –

- technical plants;
- separation at rendering plants; and
- levels of toxin in shellfish waste.

We also intend to cover a number of other issues and guidance on these will be made available on the Executive's website once finalised, copies of the draft guidance are currently posted on the DEFRA web site (www.defraweb/animalh/by-prods/default.htm). If there are other areas of importance that you think merit the need for specific guidance notes, perhaps you could let me know.

Please send your comments to my colleague Ian Murdoch at the above address by **4 April 2003** at the latest.

At the end of the consultation period, we intend to make copies of the comments received publicly available. It is assumed that your reply can be made publicly available unless you indicate clearly in your response that you wish all or part of it to be excluded from this arrangement. Copies of the comments will be made available at the main Executive Library at Saughton House, Edinburgh. Copies will be supplied on request but there will be an administrative charge to cover copying and postage. To enable requests to be dealt with efficiently and to avoid undue delay for those calling at the Library in person, it would be appreciated if personal callers could give at least 24 hours notice of their requirements.

Yours faithfully

Martin Morgan
Beef Exports, BSE & Animal Waste Branch

Proposed Animal By-Products (Scotland) Regulations: Consultation paper

Background

1. The EU Animal By-Products Regulation lays down rules for animal by-products and products, such as petfood and meat and bone meal, which are derived from animal by-products. It consolidates the provisions of the Animal Waste Directive, 90/667/EEC, and those parts of the BALAI Directive, 92/118/EEC, which deal with the import and trade of animal products which are not intended for human consumption, as well as various associated amendments and safeguard decisions. The Regulation also implements opinions of the EU Scientific Steering Committee, which suggested that feedingstuffs should be sourced only from material that is fit for human consumption. The Regulation will therefore ban the use of high risk material in animal feed.

2. Although the Regulation would permit in some circumstances the use of low risk (Category 3) material in feedingstuffs, there is separate legislation (the TSE (Scotland) Regulations 2002) which prohibits the feeding of animal protein to certain types of animals. That legislation will not be affected by the adoption of the Animal By-Products Regulation although the Animal By-Products Regulation will be in place when the Commission and Member States seek to relax elements of the ban on processed animal protein.

Timing

3. The EU Regulation will apply from 1 May 2003. The proposed Scottish Statutory Instrument will be laid after the forthcoming Scottish elections in May. Although a ban on the swill-feeding of catering waste to livestock took effect from 1 November 2002, we had already introduced this in May 2001 by amending the Animal By-Products Order 1999. A ban on the use in animal feed of used cooking oil also applied from 1 November 2002, but the UK requested a delay in the implementation of that provision until 30 October 2004. Although the transitional measures for used cooking oil are unlikely to be adopted before March 2003, the European Commission, Parliament and Council have all accepted that a transition period could apply in the UK and Republic of Ireland, and that it is not appropriate to implement the ban in the meantime.

Transitional and implementing measures

4. The European Commission has undertaken to come forward with transitional measures in certain areas, to apply in certain Member States. These include –

- small (less than 50 kg/hour) incinerators which do not burn specified risk material (UK);
- the use in animal feed of used cooking oils (UK and the Republic of Ireland);
- and

- rendering plants which are in the same building as slaughterhouses (UK and others);
- swill-feeding of catering waste (Germany and Austria).

The use in animal feed of used cooking oils, and the swill feeding of pigs, is already subject to strict controls and strict controls will continue to apply during the transition period.

5. We have suggested to the Commission that current separation procedures at oleochemical plants which process UK and non-UK tallow are sufficient to achieve compliance with the Regulation, and have asked for a transition period if that case is not accepted. We also intend to ask for a transition period to permit the rendering of blood at atmospheric pressure until the necessary pressure cooking equipment can be installed. Transition periods will only apply in those member States that have requested them. There will be no transition period to allow the land application of blood to continue, or the burial of fallen stock except in the “remote area”.

6. The Commission has proposed measures to allow the feeding of Category 1 material to necrophagous birds in Spain and the recycling of fur animals in Finland. It has also sought the opinion of the EU Scientific Steering Committee on a number of issues, with a view to coming forward with suitable proposals to allow current practices to continue –

- whether there are health risks from the feeding of fish meal obtained from wild fish to farmed fish; and
- the UK’s risk assessment on the use of small incinerators to incinerate specified risk material.

The SSC has also been asked to look at the conditions under which burial and burning can be safely achieved, so that the Commission can propose suitable measures to apply in the limited circumstances in which burial and burning is permitted.

7. In addition, the Commission is looking at suitable markers, with a view to tabling a proposal to require certain animal by-products and processed products to be marked in a way that would ensure they are disposed of in a legitimate manner, and are not diverted.

8. The Commission is expected to resolve a number of queries concerning the relationship between the Animal By-Products Regulation and the environmental controls in the Waste Framework Directive and the Waste Incineration Directive. However, in most cases environmental controls will apply in addition to the controls in the Animal By-Products Regulation. For example, while an activity such as the land application of digestive tract contents may be permitted by the Animal By-Products Regulation, environmental regulatory constraints will still need to be complied with.

9. The Regulation provides for the Commission to deal with certain issues under its own competence and the intention is that the transitional and implementing measures should be dealt with as a package, with a vote being taken in the Standing Committee for Food Chain and Animal Health in April 2003. The Commission is also

undertaking a review of the Annexes of the Regulation, primarily in relation to trade and import requirements, and will make any amendments by the same procedure.

10. We are still considering how best we can enforce the transitional and implementing measures, as they are unlikely to be adopted before this SSI needs to be made. However, they will need to be given effect quickly so that they can apply from 1 May if possible. At present, we think that we may make any necessary changes through a Schedule to the draft SSI. We will however include a provision in respect of the transitional measures for used cooking oils, for which a proposal has already been received, but proposals for the other transition periods have yet to be tabled.

Approvals and enforcement

11. The Regulation requires the approval or registration of the premises on which animal by-products are processed or disposed of and, for certain premises, the Regulation also sets the standards with which they must comply and to which they must be operated.

12. Scottish Ministers will be responsible in Scotland for issuing approvals under the Regulations and the State Veterinary Service will inspect premises as necessary to ensure compliance. Where non-compliance is found, the Regulation requires the approval to be suspended or revoked. It is an offence to operate premises without an approval. The Meat Hygiene Service will enforce the Regulation in licensed slaughterhouses and cutting plants and by local authorities (usually Trading Standards Departments) elsewhere.

13. Applications for approval or registration under the Regulation should be submitted to the local Animal Health Divisional Office who will arrange for any necessary inspections. However, there is no need for operators to apply if they hold an existing approval for that operation under the Animal By-Products Order 1999 or the TSE (Scotland) Regulations 2002; the original approvals will be “saved”.

14. The Regulation requires member States to send to the European Commission and other member States a list of premises that are approved under the Regulation. We also intend to make this list publicly available. The list will give details of the name of the operator, the address of the premises, the approval number, the type of approval (e.g. as a petfood, rendering or other plant) and, where appropriate, the category and species of material that the premises may receive.

Trade and imports

15. The Regulation establishes conditions for trade between member States and import into the Community of animal by-products and products derived from them. These are broadly in line with those in the BALAI Directive, 92/118/EEC and, at least for the import provisions, will be enforced through the new Products of Animal Origin (Third Country Imports) Regulations which are due to come into force shortly. These provisions are not described in the attached Annex.

EU ANIMAL BY-PRODUCTS REGULATION 1774/2002: SUMMARY

Main provisions

1. The Regulation applies controls to the processing and disposal, placing on the market and import from third countries of animal by-products and processed animal by-products. It controls the following animal by-products–

- animal carcasses, parts of animal carcasses (including blood) and products of animal origin which are not intended for human consumption;
- manure and gut contents;
- ova, embryos and semen which are not intended for breeding purposes; and
- catering waste containing meat or products of animal origin and which is intended for feeding to livestock, use in a biogas or composting plant or which comes from international transport.

Categorisation

2. Animal by-products are divided into three categories -

(i) **Category 1** is high-risk material and must be completely destroyed. It includes the carcasses of animals suspected or confirmed as having a TSE, the carcasses of zoo and pet animals, Specified Risk Material and catering waste from means of international transport.

The permitted disposal routes are -

- incineration;
- rendering followed by incineration;
- rendering to the pressure cooking standard (133°C and 3 bar pressure) followed by landfill; and
- for catering waste from means of international transport, landfill.

(ii) **Category 2** is also high-risk material (e.g. diseased animals, animals that die on farm and which do not contain SRM at the point of disposal). The disposal routes are -

- incineration;
- rendering followed by incineration;
- rendering to the pressure cooking standard (133°C and 3 bar pressure) followed by disposal to landfill, use as a fertiliser or treatment in a biogas or composting plant;
- for fish, ensiling or composting in accordance with rules which have yet to be established; and
- for rendered fats, use in an oleochemical plant to produce tallow derivatives for technical use only.

NB Burial, open burning, composting and biodigestion are not permitted disposal routes for fallen stock.

(iii) **Category 3** is essentially material which is fit for human consumption. The disposal routes are -

- incineration;
- rendering followed by incineration or landfill;
- rendering followed by use in feedingstuffs or fertiliser (subject to the ban on feeding catering waste containing meat etc. to livestock and the restrictions in the TSE Regulations on the use of processed animal protein in feedingstuffs);
- use in a petfood plant;
- use in a technical plant;
- treatment in a biogas or composting plant;
- for fish, ensiling or composting in accordance with rules which have yet to be established; and
- for rendered fats, use in an oleochemical plant to produce tallow derivatives.

3. There is provision for the Commission to propose, following advice from the EU Scientific Steering Committee, rules for the ensiling or composting of Category 2 and 3 fish waste and rules for novel methods of treatment or disposal. Until those methods have been proposed and agreed, they may not be used to treat or dispose of any animal by-products. The exception is the use of ensiling as a treatment (method 6) for Category 3 fish waste in an approved rendering plant.

Derogations

4. There are a number of derogations from the disposal routes listed above. The Regulation permits member States to authorise the following uses of animal by-products -

- diagnostic, educational and research purposes;
- taxidermy in a technical plant; and
- for most types of category 2 and 3 material -
 - (i) feeding to dogs from recognised kennels or packs of hounds, maggots farmed for fishing bait and fur animals;
 - (ii) feeding to zoo and circus animals, reptiles, birds of prey and wild animals whose meat is not destined for human consumption; and
 - (iii) treatment at an approved collection centre (e.g. knacker's yard) for feeding to the above animals.

5. The UK intends to exercise all of these derogations with the exception of the feeding of fur animals. The Regulation requires that premises where fallen stock is collected and treated for feeding to the animals in sub-paragraph (i) above be approved as collection centres. Collection centres must comply with the current construction and hygiene rules for knackers' yards, keep records and, where the material is for despatch to other premises, stain or sterilise the material. Thus knackers' yards, hunt kennels and maggot farms which collect fallen stock must be approved as collection centres. But if animal by-products have already been treated

at a collection centre in accordance with the Regulation, they may be fed to any of the above animals without the receiving premises being approved as a collection centre. (If the final user is also the collector of the material, the premises must be approved as a collection centre).

6. We intend to issue a general approval for all other premises on which the above animals are fed. However, we intend to maintain the current requirement for zoos and circuses to be registered if they feed animal by-products. We will also require the registration of premises that receive animal by-products from a collection centre for feeding to dogs in recognised kennels or packs of hounds, or to maggots farmed for fishing bait. It should be noted that only certain types of material can be fed to any of the above animals – Specified Risk Material or whole ruminant carcasses may not be used.

Burial and burning

7. The Regulation allows Member States to permit the burial of pet animals. The burial and open-burning of the carcasses of other animals such as fallen stock may be permitted only -

- (a) in remote areas; or
- (b) during an outbreak of notifiable disease if there is a lack of capacity at rendering plants and incinerators or because transport would spread the disease.

8. As regards 7(a), we intend to exercise all of those derogations and intend to interpret “remote areas” as being parts of the Highlands and Islands of Scotland. We will consult on this in more detail, but the basic principle is that burial and burning should only be permitted where the carcass is more than 100 km away from the collection centre and the stocking density is very low.

9. For &(b), the Commission also intends to come forward with a proposal to ensure that, where it is permitted, burial and burning is carried out in a way that safeguards the environment. The proposal will also clarify the requirement for burial and burning to be carried out in a way which precludes all risk of transmission of TSEs and will address the potential need during disease situations for burial to be carried out off-site (e.g. in a licensed landfill site) if suitable biosecurity measures are in place.

Products that were previously exempt

10. Certain products (blood, feathers, hides and skins etc) are exempt from the scope of the current EC legislation, the Animal Waste Directive (90/667/EEC), as long as they come from animals which have passed ante-mortem inspection and are not to be used in feedingstuffs. This exemption will end and these products will in future have to be treated in accordance with the Regulation.

11. Thus operators will no longer be able to apply untreated blood from abattoirs to land. The blood will need to be treated in an approved rendering, biogas or

composting plant before it can be applied to land. Similarly, it will no longer be permitted to dispose of feathers to landfill; they too will need to be treated in accordance with the Regulation. We are aware that this creates some difficulties in relation to the disposal of blood and have been discussing with key stakeholders how best the change can be managed.

(a) across GB we believe that as many as one third of slaughterhouses do not have the facilities to collect and store blood. It is currently disposed of to sewer or by land application. After 1 May, these routes will no longer be permitted and operators will need to install facilities to collect the blood. In many cases, we think that there are relatively cheap and simple ways of providing such facilities and we are preparing suitable guidance for slaughterhouse operators. There will not be any transition period to allow for this work to be completed and operators who are able to adopt these solutions will be expected to do so by 1 May 2003. But we recognise that in a few cases there will be genuine difficulties in complying within that timescale. Providing that the operator has a clear plan of action to demonstrate that the work is being undertaken as quickly as possible, we will therefore consider asking the enforcement body (in most cases the Meat Hygiene Service) not to take enforcement action during that period.

(b) Blood will need to be treated in an approved rendering, composting or biogas plant. We understand that there will be sufficient treatment capacity in rendering plants to treat all the blood at atmospheric pressure from 1 May 2003. However, there is not currently the capacity for rendering plants to treat mammalian blood to the pressure cooking standard, as required by the Regulation. We have queried the need for the higher standard with the Commission who have indicated that they are prepared to allow a transition period to enable the necessary pressure cooking equipment to be installed.

Manure and gut contents

12. The Commission had originally proposed that the transport of manure between farms should be controlled and that records should be kept of such movements. We succeeded in ensuring that these requirements were not imposed, although imports and trade between member states in manure will be controlled, and the spreading of digestive tract contents will be restricted to non-pasture land. Manure and digestive tract contents which “the competent authority does not consider to present a risk of spreading any serious transmissible disease” may be spread to land without restriction. As the competent authority in Scotland we intend to interpret ‘serious transmissible disease’ to mean List A OIE notifiable diseases where appropriate.

13. In circumstances where manure or slurry is discarded as waste (i.e. when it is not used for beneficial use at the place of production) any holder of the slurry will, in the near future, be subject to a “duty-of-care” as required by environmental legislation.

Sludge from waste water treatment

14. The Regulation requires animal materials collected when treating waste water from slaughterhouses and rendering plants to be treated as Category 1 or 2 material. There has been some discussion about how this should be applied. In the UK we currently require ruminant slaughterhouses to have 4mm drain traps to remove solids from the waste water. The solids are then Specified Risk Material (Category 1 material) and must be disposed of as such. Similarly, we require suitable measures to be in place to remove animal by-products from the waste water if the waste water and sludge from the treatment system are not to be treated as animal by-products. We take the view that providing suitable measures such as drain traps are in place to remove the solid material, the waste water will not be controlled by the Regulation. In practice, a 3-4 mm drain trap or filter seems to be the most common way of achieving this. We do not consider that further downstream measures, such as dissolved air flotation (DAF) units, are necessary as they perform a function equivalent to those performed by municipal sewage treatment works. Although the Commission has implied in the past that the sludge from DAF units should be treated as an animal by-product, even if there is an upstream filter, they are aware that there are considerable difficulties with such an interpretation. We believe that they are now leaning towards the UK interpretation and that a suitable definition may be included in Annex I of the Regulation. In discussions, the suggestion of a 4 mm screen received support from a number of member States.

Transport

15. The Regulation establishes transport conditions and record-keeping requirements for both the unprocessed and the processed material. It must be identified, transported in covered containers and accompanied by a commercial document or a health certificate. Similar controls also apply to the products in Annexes VII and VIII (rendered fats, meat and bone meal, gelatine, etc.) but not to products that are derived from them.

16. The Regulation requires animal by-products to be collected and transported in covered leak-proof containers or vehicles. Some renderers collect animal by-products and specified risk material in compartmentalised vehicles. The seals between the compartments are not always leak proof and it is not possible to guarantee that the animal by-products are never contaminated by the SRM. We consider that the Regulation can be complied with if we allow transport in containers that are not impervious (i.e. in compartmentalised vehicles) as long as all the material in the vehicle is rendered (or otherwise disposed of) as the higher risk category. We will therefore include a suitable provision in the draft SSI.

Mixing of different categories of animal by-products

17. Currently, we permit the mixing of SRM and other animal by-products only at the rendering plant and not at any earlier stage. The aim was to ensure that a clear audit trail is maintained. However, there is a case to allow mixing earlier if suitable audit procedures are in place. The Animal By-Products Regulation does not

specifically address this issue, but simply indicates that if material is mixed it must all be treated as the higher category of material. We would welcome views on the practicality of allowing mixing to be carried out at any premises (e.g. at a slaughterhouse or knacker's yard), providing that a record is kept of the weight, category and species of both types of unmixed material and the date and place of mixing. A mixture of mammalian and non-mammalian material would need to be treated as mammalian material.

Intermediate storage facilities

18. The Regulation introduces a requirement for intermediate storage facilities to be approved. Such premises would have to meet basic facilities and hygiene standards and ensure separation between the various categories of material. A similar requirement applies to premises on which the processed products are stored (storage plants).

Incinerators

19. Incinerators that burn only animal carcasses can be approved under the Animal By-Products Regulation. Incinerators which burn meat and bone meal or material other than animal carcasses will need to be approved under the Waste Incineration Directive, 2000/76/EC, even if they burn animal carcasses as well.

20. The controls on high capacity (50 kg/hour and over) incinerators will apply to the timetable for the Waste Incineration Directive, i.e. from 28 December 2002 for new incinerators and 28 December 2005 for existing incinerators. The Regulation envisages that the controls on low capacity (less than 50 kg/hour) incinerators will take effect as soon as the Animal By-Products Regulation applies in member States. However, across GB there are a large number (around 2500) of low capacity animal carcass incinerators and will not be able to approve them all within such a short timescale, nor are they likely to be able to make any necessary improvements in that time. These incinerators are mostly on farm, but will include some pet crematoria and veterinary incinerators. We have therefore asked the Commission for a two-year phase-in period for the controls on low capacity incinerators that do not incinerate SRM or whole ruminant carcasses.

21. The Regulation does not permit the incineration of SRM in low capacity incinerators. There are two reasons for this –

- (a) it is not yet clear whether the exemption from the Waste Incineration Directive applies to parts of animal carcasses as well as to whole carcasses. The Commission has undertaken to clarify the position within six months of adoption of the Regulation; and
- (b) the Commission has asked for advice from the EU Scientific Steering Committee on the potential risks of using low capacity incinerators to incinerate SRM. The Committee has been supplied with the UK's risk assessment on the use of low capacity incinerators to incinerate SRM (which suggested that the risks were small).

Subject to satisfactory answers on both counts, the Commission will come forward with a proposal to permit the incineration of SRM in low capacity incinerators.

22. More detailed guidance on the controls on incinerators will be available on our website shortly.

Rendering plants

23. The Regulation requires rendering plants to be approved, to comply with certain construction and operational provisions and to render to specified processing parameters. Rendering plants that render Category 3 animal by-products must be in a separate building to plants that render Category 1 or 2 material.

24. The requirement for Category 3 plants to be in a separate building creates some difficulties for rendering plants which are on the same site as slaughterhouses, as they tend to be in separate parts of the same building. These “renderers” are usually fat melting operations that process high quality fat from the slaughterhouse. We have asked for a three-year transition period to enable them to make the necessary structural changes. Note however that this condition does not apply if the fat or oil is intended for the subsequent preparation of food for human consumption, e.g. cooking oil.

25. There is increasing demand for operators to burn tallow derived from SRM as fuel. Although some of the burning takes place at rendering plants, it may also occur on other premises such as farms. Currently we control this use via a condition in the rendering plant’s approval that specifies the premises to which the tallow may be sent for burning. Such premises are first inspected to ensure that the burning will be carried out without risk to animal or public health. When the Regulation applies, there will be a more stringent record keeping requirement for such material and we intend that there should be increased checking of the records to ensure that tallow is being disposed of properly. In addition, the European Commission is currently investigating the use of markers to identify different categories and types of material, and it is possible that this may result in a requirement to stain the tallow. Pending these changes, we therefore propose to maintain the current system of control and, because the SSI will allow us to add conditions to approvals, we have not included a specific provision.

Oleochemical plants

26. The processing of tallow (rendered fats) derived from category 2 material to produce tallow derivatives will need to take place in an approved oleochemical plant and to the standards in Annex VI, Chapter III (i.e. the standards established by Decision 99/534). No standards are set for the processing of tallow derived from category 3 material, although the plant will still need to be approved.

27. The Regulation requires plants processing tallow derived from category 2 material to be physically separate from plants which process tallow derived from category 3 material. We have written to the Commission explaining the separation procedures that are currently in place in the UK in relation to UK and non-UK tallow. As the European Directorate for the Quality of Medicines considers these procedures to provide adequate separation, we have asked the Commission if they could do likewise. But if they insist on physical separation of the equipment, we have asked for a transition period of at least two years to allow time for the necessary changes to be made.

Composting

28. The Regulation would permit the treatment of catering waste and other category 3 material in composting plants and biogas plants. Animal by-products other than catering waste would need to be reduced to a size of 12 mm and treated at 70°C for at least one hour in a closed vessel on approved premises. The compost or residues could be used as fertiliser on non-pasture land (i.e. land that is not grazed by animals for at least two months after application of the fertiliser). Manure and digestive tract contents could be used without pre-treatment, but other category 2 material could only be used in a composting or biogas plant if it had first been rendered to the pressure cooking standard.

29. The Regulation also provides for the Commission to seek scientific advice and, in the light of that advice, to come forward with proposals for alternative standards for the treatment of catering waste. In the meantime member States are permitted to maintain their own standards for the treatment of catering waste. We are currently consulting on proposed standards for the treatment of catering waste in composting and biogas plants. As the Animal By-Products Order 1999 and its amendments will be revoked when the Regulation applies, these controls will now be incorporated into our draft enforcing SSI. They will be amended as necessary in the light of the responses to the separate consultation on the composting rules.

Technical plants

30. The Regulation will require the approval of technical and petfood plants. Such premises will only be able to use Category 3 material. The only exception is for taxidermy operations, which may use all categories of material. A wide range of operations fall within the scope of a “technical product”, including pharmaceutical

and cosmetic products and a large number of products which will not be used for food or feed purposes. Many operations are small scale, hobby activities that are carried out by a large number of people but pose little or no risk to human or animal health. To avoid all of these people having to apply for approval, we propose to issue a general approval on behalf of Scottish Ministers for the following operations -

- the use of buffalo and sheep horn to produce walking sticks;
- blowing eggs from ducks, geese, emus etc. for craft purposes;
- cleaning seashells for use in gardens; and
- curing horse tails for use on rocking horses.

There may be other activities that should also be included in this list; we would welcome views, together with a brief description of the activity carried out.

31. We also intend to issue a general approval for taxidermists who use non-SRM, UK-sourced material. However, we do intend to maintain controls over taxidermists who import whole animal carcasses or who handle Specified Risk Material or ruminant carcasses from which the SRM has not been removed.

32. Pharmaceutical plants are already required to be registered and we will require tanneries to seek approval, as these operate on a much larger scale. Tanneries will be able to use hides and skins from animals which were slaughtered for human consumption, as well as hides and skins from fallen stock as long as they “originate from animals that did not show clinical signs of disease communicable through that product to man or animals” (Article 6.1(k) of the Regulation).

33. Where approval is required, we intend that the approval procedure should be as light as possible unless the operator intends to handle Specified Risk Material. The operator will simply need to complete a simple registration form detailing the operations that are carried out. Veterinary field staff may then carry out occasional checks on the premises.

34. We did not succeed in obtaining a provision in the Regulation to allow the use of SRM in technical plants and the use of SRM in these plants will therefore need to cease on 1 May.

Approval of laboratories

35. The Regulation requires all rendering plants to send samples of the rendered material to a laboratory equipped to carry out the necessary analyses and approved by the competent authority. A similar provision applies to biogas and composting plants. Testing is required for *Clostridium perfringens*, *Salmonella* and *Enterobacteriaceae*.

Approval of laboratories

36. The draft SSI will provide for laboratories to be approved to carry out these tests, as currently happens under the Animal By-Products Order. It will also include the methodologies that are to be followed. We have made some minor changes to

the references and methodologies to take account of changes since the Order was made but some further updating is still needed. Views are sought on any other changes that may need to be made to the methods.

Frequency of sampling

Rendering plants

37. The Regulation requires the following material to be tested for *Clostridium perfringens* –

- (a) rendered Category 1 and 2 material which is to be disposed of to landfill; and
- (b) rendered Category 2 material that is to be used in a biogas or composting plant.

Views are sought, but we suggest that we require this testing for all Category 1 and 2 material and maintain the current requirement for testing to be carried out once a week and from the outlet of the cooker. This test demonstrates that the cooker is working properly; for a continuous cooker, a batch is likely to be equivalent to a week's processing.

38. Rendered material derived from Category 3 material must be tested for *Salmonella* and *Enterobacteriaceae* and we intend to distinguish between material that is intended for use in feedingstuffs and that which is not. Thus material which is intended for use in feedingstuffs should be sampled on each day that the material is consigned from the premises, as at present. For material that is not intended for feedingstuffs, a weekly sample should be taken of material being consigned from the premises. We will not include in the SSI the sampling methods which are currently included in Part I of Schedule 3 of the Animal By-Products Order 1999 and views are sought on whether this should still be specified.

Biogas and composting plants

39. Views are sought on the frequency of sampling for microbiological testing at biogas and composting plants. The sampling will need to take place at the point at which the material leaves the premises. We suggest that we require the sampling of

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- where less than 20 tonnes/week is despatched, one sample a week of material that is consigned from the premises; or
- where more than 20 tonnes/week is despatched, one sample from each batch of up to 20 tonnes, on consignment from the premises.

Samples should be taken from three or four places in the batch and mixed to form one composite sample. Views are sought on whether 20 tonnes represents an average batch size and on the number of samples that should be taken from the batch.

40. Although the ABP Regulation deals with the measures to be taken if rendered material does not comply with the microbiological standards, it does not have a

similar provision in respect of compost and digestion residues. We therefore propose to include such a condition in the draft SSI.

Intraspecies recycling

41. The Regulation prohibits the feeding of a species with processed (rendered) animal protein derived from the bodies or parts of bodies of animals of the same species. This is in addition to the existing ban on the feeding of processed animal protein enforced by the TSE (Scotland) Regulations 2002.

42. Processed animal protein is defined as “animal proteins derived entirely from Category 3 material which have been treated in accordance with this Regulation so as to render them suitable for direct use as feed material or other use in feedingstuffs, including petfood, or use in organic fertilisers or soil improvers: it does not include blood products, milk, milk-based products, colostrum, gelatine, hydrolysed proteins and dicalcium phosphate”. We understand that the Commission intends to add eggs, egg products and tricalcium phosphate to the exemptions, in line with the feed controls. Tallow (rendered fat) does not fall within the definition of processed animal protein. Although the Regulation would permit exempt products to be fed to livestock, other legislation prevents the feeding to livestock of gelatine, hydrolysed proteins and dicalcium phosphate of UK bovine origin (although hopefully gelatine derived from hides may be permitted in the near future).

43. The European Commission has asked the EU Scientific Steering Committee for an opinion on the feeding of wild fish to farmed fish. If the SSC deems it acceptable, the Commission will come forward with a proposal to derogate from the ban on intra-species recycling and allow such feeding (after rendering to appropriate standards).

Swill-feeding and used cooking oils

44. The Regulation prohibits the feeding of farmed animals other than fur animals with catering waste or feed material derived from or containing catering waste. Catering waste is defined as “all waste food originating in restaurants, catering facilities and kitchens, including household kitchens”.

45. The Commission has confirmed that this definition includes used cooking oil from catering premises. Currently such oil is used in animal feed and the UK considers that such use is safe providing suitable measures are in place, as in the UK, to prevent the oil being contaminated. We have asked the Commission for a two-year transition period to enable sustainable alternative outlets to be put in place and thus avoid the environmental consequences (of fly tipping or disposal to sewer) that could have resulted from an earlier ban. The Commission has recently proposed measures, largely in line with the controls that already exist in the UK that would enable this oil to continue to be used in animal feed until 30 October 2004. A copy of the proposal is available on request.

Feeding of other waste food

46. Currently we prohibit the feeding to livestock (including pet ruminant animals, pigs and poultry) of waste food which originates on premises where meat and most other products of animal origin are handled. The aim is to prevent the feeding to livestock of any material that may contain or have been in contact with meat. This is because there is a risk that the catering waste could contain meat that is infected with a serious animal disease such as Foot and Mouth Disease or Classical Swine Fever. When the Animal By-Products Regulation applies, it will introduce a more limited definition of catering waste. Waste containing any meat or animal product (e.g. sandwich fillings, pizza toppings) from bakeries, food factories etc. will become animal by-products, in line with such waste from retail premises. Material that originates on those premises could be fed to livestock if it does not contain meat or most other products of animal origin. We are concerned to ensure that this change does not result in meat or other products of animal origin being fed to livestock as a result of accidental contamination. We therefore propose that we should allow the feeding of material which does not contain, and has not been in contact with meat and most other products of animal origin, providing adequate measures are in place to ensure that there can be no cross-contamination at any stage, including the handling and collection of the waste. Enforcement will be a matter for local Trading Standards authorities but premises that intend to supply material for feeding to livestock would need to be able to demonstrate the measures they are taking to ensure that no cross-contamination occurs. We intend to discuss this issue with key stakeholders during the consultation period. If it becomes apparent that adequate measures cannot be put in place, we will retain the current ban on the feeding to livestock of waste food which originates from premises on which meat or most other products of animal origin are handled.

Disposal of waste from food factories and retail outlets

47. The Animal By-Products Regulation introduces a ban on the burial (including landfill) of animal by-products. This will impact on shops and supermarkets as well as food producing premises and they will need to ensure that waste which contains meat or other products of animal origin is disposed of in a legitimate manner (e.g. to an approved composting, biogas, rendering or incineration plant). During the consultation period we intend to discuss the implications of this requirement further with relevant interests.

Disposal of international catering waste

48. The Regulation contains controls on the collection and transport of international catering waste from ports and airports. It is our intention that the disposal of international catering waste is strictly controlled (e.g. at landfill sites) to minimise the risk of spreading disease. We are currently of the view that this can be achieved within existing legal provisions and therefore the draft SSI will not contain any specific provisions relating to the disposal of international catering waste.

Records

49. Although the Regulation requires records to be kept of material that is consigned, transported or received, there are other areas where it does not specify that records must be kept, but where they will be essential to ensure that the Regulation is complied with. The draft SSI therefore will include the following requirements.

50. The TSE (Scotland) Regulations 2002 require a record to be kept when SRM is moved from one part of an approved premises to another part of the premises. The intention was to ensure that records are kept when, for example, a knacker removes SRM from a carcass in one part of the premises and incinerates it in another part of the same premises. Because the material is not consigned from the premises, there was previously no record-keeping requirement and it was impossible to reconcile the quantities of material destroyed with those received. To maintain the audit trail, we are therefore proposing a similar provision (regulation 25) for animal by-products which are destroyed or used (e.g. fed to hounds) on the premises. There would be an exception for the feeding of birds of prey, reptiles and wild animals which are not intended for human consumption but all other operators will be required to record the quantity and description of the animal by-products, and the method and date of disposal or use. Farm records will also need to be kept to account for disposal of fallen stock by incineration or other methods. This will enable checks to be made to ensure that fallen stock is only disposed of through routes authorised by the Regulation.

51. A similar requirement is included for processed products which are used or destroyed on the premises, e.g. for meat and bone meal and tallow which is incinerated on rendering premises to produce fuel.

52. The Animal By-Products Regulation does not have a record keeping requirement for the processing parameters at biogas or composting plants, although records will obviously be needed if an operator is to demonstrate that the parameters are being met. This requirement will therefore include in the draft SSI.

53. There is a small loophole in the Regulation, in that there is no requirement for operators to record the quantity and description of animal by-products treated in a biogas or composting plant, and the date of processing. In practice, they will have records of the quantities received and records of the critical control points, but for the sake of clarity we plan to include this requirement.

54. We also propose that operators who send samples for testing in an approved laboratory shall keep a record of the results of the tests and any action taken after a sample has been shown not to comply with the required microbiological standards. This is in line with the requirements that currently apply to renderers who send samples for testing.

Fertiliser controls

55. In the UK, we have a ban on the use of mammalian meat and bone meal, or anything derived from it, on agricultural land. However, the regulation will permit the use of meat and bone meal derived from Category 2 and 3 material on non-pasture land and will therefore introduce anomalies into our controls. We have reviewed the position and intend to recommend some changes. Our aim has been to ensure that safeguards are maintained yet value can be returned to the disposal chain where it is safe to do so. Amendments to the TSE Regulations will be necessary to make the following changes, and these will be the subject of separate consultation. But because of the implications for the disposal of animal by-products, we thought it would be helpful to inform you now of our initial thinking.

56. We consider that fully rendered poultry and fishmeal could continue to be used as fertiliser on non-pasture land. (We propose that non-pasture land should mean land that is not grazed or cropped for at least two months after application of the fertiliser.) For mammalian material other than blood, we intend to propose the following changes -

- no meat and bone meal (MBM) or ash derived from Category 1 material (e.g. SRM or material from the Over Thirty Month Scheme) should be used as fertiliser;
- MBM derived from Category 2 and Category 3 material could be used on premises where there are no livestock;
- Ash from the incineration of MBM derived from Category 2 and 3 material could be used without restriction;
- Ash from the incineration of Category 2 and 3 animal by-products in high capacity incinerators could be used without restriction;
- Ash from the incineration of Category 2 and 3 animal by-products in low capacity (less than 50 kg/hour) incinerators may not have been completely reduced to ash. We therefore considered that the ash should be disposed of to a suitably licensed landfill site or, if environmental rules permit it, disposed of by burial on site. However, once the full requirements of the Animal By-Products Regulation are in place, incinerators will be operating at 850°C and all the material should be properly incinerated. At that time it may be appropriate to allow land application, providing environmental controls permit it;
- MBM derived from Category 3 material could be transformed into another product (e.g. compound fertiliser, compost or residues from a biogas plant) in approved premises.

57. We considered that, because SRM and whole ruminant carcasses are excluded, the TSE risk from Category 2 and 3 material is low, and the issue is primarily one of control. This control can be achieved by preventing the material being brought onto livestock farms or, for MBM derived from Category 3 material, by allowing its incorporation into other products for use on non-pasture land. In line with the ban in the Animal By-Products Regulation on the use in feedingstuffs of Category 2 material, we do not propose to allow MBM from Category 2 material to be used in this way, in case any of it is ingested by livestock.

58. We recognise that any relaxation of the controls will increase the risk that livestock might gain access to mammalian MBM and we will need to ensure that the risk is minimised. To this end, we will need suitable record keeping requirements so that a proper audit trail can be maintained. We will also need to increase the level of checking of records at rendering plants and at the premises of those who receive the MBM. We will be discussing the practicalities of channelling the material with interests. If it becomes apparent that sufficient safeguards cannot be put in place, we would not progress this relaxation of the controls. We also intend to seek the view of SEAC, the Government's independent advisory body on TSEs, on the proposed changes.

59. Environmental controls apply to the disposal to land of all ash from incinerators and were the above proposals to be pursued, we would need to consider whether changes to these controls were needed.

Notice procedure

60. We have maintained a notice procedure, in line with that in the Animal By-Products Order 1999. This allows local authority or SVS inspectors to serve notices where it is necessary for animal health purposes, where the legislation is not being complied with, or where cleansing and disinfection of a vehicle, container or premises is necessary. We are now extending this to allow notices to be served where it is necessary for public health purposes, in line with the objectives of the Regulation. Where the person on whom the notice was served fails to comply with the notice, the Regulation enables the inspector to arrange for the work to be carried out and recover the costs from the person on whom the notice was served.

Appeals procedure

61. The draft SSI will introduce an appeals procedure that allows an appeal to an independent person against suspension or revocation of approvals. That person will gather evidence and present the evidence to Scottish Ministers for their decision.

Savings provisions

62. The draft SSI will not contain a savings provision for approvals that were issued under the Animal By-Products Order 1999 or the TSE (Scotland) Regulations 2002 and which are still valid. This is dealt with in the Interpretation Act, which provides that such approvals continue in force. So operators who hold an existing approval for the operation under the original legislation will not need to reapply for approval.

Revocations and consequential amendments

63. The Animal By-Products Order 1999, as amended, will be revoked and some consequential amendments made to the TSE (Scotland) Regulations 2002. The

provisions relating to the removal and staining of SRM remain in the TSE Regulations but those relating to transport and disposal of the SRM (which are duplicated by the Animal By-Products Regulation) will now be dealt with by the Animal By-Products Regulation alone.

64. Once the Commission has tabled its proposal for markers for animal by-products and processed products, the FSA will review the Animal By-Products (Identification) Regulations 1995, which require the staining of high risk animal by-products, and consult on any necessary changes.