STATUTORY INSTRUMENTS

2003 No. 1482

ANIMALS, ENGLAND

ANIMAL HEALTH

The Animal By-Products Regulations 2003

Made - - - -	*4th June 2003*
Laid before Parliament	*9th June 2003*
Coming into force - -	*1st July 2003*

The Secretary of State, being designated(**1**) for the purposes of section 2(2) of the European Communities Act 1972(**2**) in relation to measures in the veterinary and phytosanitary fields for the protection of public health, in exercise of the powers conferred on her by that section, makes the following Regulations—

PART 1

Introduction

Title, extent and commencement

1. These Regulations may be cited as the Animal By-Products Regulations 2003; they extend to England and come into force on 1st July 2003.

Interpretation

2.—(1) In these Regulations—

"approval" and "authorisation" means an approval or authorisation granted by the Secretary of State;

"the Community Regulation" means Regulation (EC) No. 1774/2002 of the European Parliament and of the Council of 3 October 2002 laying down health rules concerning animal by-products not intended for human consumption(**3**) as amended by and as read with—

(**1**) S.I. 1999/2027 as amended by S.I. 2002/794.
(**2**) 1972 c. 68.
(**3**) OJ No. L273, 10.10.2002, p.1.

(a) Commission Regulation (EC) No. 808/2003 amending Regulation (EC) No. 1774/2002 of the European Parliament and of the Council laying down health rules concerning animal by-products not intended for human consumption(**4**);

(b) Commission Regulation (EC) No. 811/2003 implementing Regulation (EC) No. 1774/2002 of the European Parliament and of the Council as regards the intra-species recycling ban for fish, the burial and burning of animal by-products and certain transitional measures(**5**);

(c) Commission Regulation (EC) No. 813/2003 on transitional measures under Regulation (EC) No. 1774/2002 of the European Parliament and of the Council as regards the collection, transport and disposal of former foodstuffs(**6**);

(d) Commission Decision 2003/320/EC on transitional measures under Regulation (EC) No. 1774/2002 of the European Parliament and of the Council as regards the use in feed of used cooking oil(**7**);

(e) Commission Decision 2003/321/EC on transitional measures under Regulation (EC) No. 1774/2002 of the European Parliament and of the Council as regards the processing standards for mammalian blood(**8**);

(f) Commission Decision 2003/326/EC on transitional measures under Regulation (EC) No. 1774/2002 of the European Parliament and of the Council as regards the separation of Category 2 and Category 3 oleochemical plants(**9**);

(g) Commission Decision 2003/327/EC on transitional measures under Regulation(EC) No. 1774/2002 of the European Parliament and of the Council as regards the low capacity incineration or co-incineration plants which do not incinerate or co-incinerate specified risk material or carcases containing them(**10**);

"inspector" means a person appointed by the Secretary of State or a local authority to be an inspector for the purposes of these Regulations;

"local authority" means—

(a) in any part of England where there is, within the meaning of the Local Government Changes for England Regulations 1994(**11**), a unitary authority for that local government area, that authority;

(b) where there is not a unitary authority—

(i) in a metropolitan district, the council of that district;

(ii) in a non-metropolitan county, the council of that county; or

(iii) in each London borough, the council of that borough;

(c) in the City of London, the Common Council;

"poultry" includes birds of all species including wild birds.

(2) Expressions defined in the Community Regulation have the same meaning in these Regulations, and Category 1 material, Category 2 material and Category 3 material comprises the animal by-products set out in Articles 4, 5 and 6 respectively of the Community Regulation.

(**4**) OJ No. L117, 13.5.2003, p. 1.
(**5**) OJ No. L117, 13.5.2003, p. 14.
(**6**) OJ No. L117, 13.5.2003, p. 22.
(**7**) OJ No. L117, 13.5.2003, p. 24.
(**8**) OJ No. L117, 13.5.2003, p. 30.
(**9**) OJ No. L117, 13.5.2003, p. 42.
(**10**) OJ No. L117, 13.5.2003, p. 44.
(**11**) S.I. 1994/867 to which there are amendments not relevant to these Regulations.

Approvals, etc.

3. Any approval, authorisation, registration, instructions or notice issued under these Regulations or the Community Regulation shall be in writing, and may be made subject to such conditions as are necessary to—

(a) ensure that the provisions of the Community Regulation and these Regulations are complied with; and

(b) protect public and animal health.

PART 2

Collection, transportation, storage, handling, processing and disposal of animal by-products

Category 1 material

4.—(1) Any person who has in his possession or under his control any Category 1 material and who fails to comply with Article 4(2) or Article 4(3) of the Community Regulation shall be guilty of an offence.

(2) For the purposes of Article 4(2)(b) of the Community Regulation the material may be processed using any of the processing methods 1 to 5.

(3) This regulation shall not apply in relation to material referred to in Article 4(1)(e) of the Community Regulation (catering waste from means of transport operating from outside the Community).

Category 2 material

5.—(1) Any person who has in his possession or under his control any Category 2 material and who fails to comply with Article 5(2), Article 5(3) or Article 5(4) (other than the provision in Article 5(4) relating to export) of the Community Regulation shall be guilty of an offence.

(2) For the purposes of Article 5(2)(b) of the Community Regulation the material may be processed using any of the processing methods 1 to 5.

(3) For the purposes of Article 5(2)(e) of the Community Regulation the animal by-products specified in that paragraph may be applied to land provided that the Secretary of State has not imposed any restrictions relating to animal health in relation to those by-products.

Category 3 material

6. Any person who has in his possession or under his control any Category 3 material and who fails to comply with Article 6(2) or Article 6(3) of the Community Regulation shall be guilty of an offence.

Mixing mammalian and non-mammalian by-products

7. Where mammalian by-products and non-mammalian by-products are mixed the mixture shall be regarded as mammalian by-products.

Collection, transportation and storage

8.—(1) Any person who fails to comply with Article 7(1), 7(2) or 7(5) of the Community Regulation shall be guilty of an offence.

(2) For the purposes of paragraph (1), if different categories of animal by-products are transported on one vehicle but in different containers or compartments, and complete separation of the different kinds of by-products cannot be guaranteed, the by-products transported shall be treated as the highest risk category of the by-products transported.

(3) In accordance with Article 7(6) of that Regulation, the provisions of Article 7 shall not apply in relation to manure transported within the United Kingdom.

PART 3

Restrictions on access to animal by-products and their use

Access to animal by-products

9.—(1) No person shall feed any animal by-product (other than liquid milk or colostrum used on the farm of origin) to any farmed animal, or any other ruminant animal, pig or poultry, unless it has been processed in a Category 3 approved processing plant.

(2) No person shall allow any farmed animal, or any other ruminant animal, pig or poultry, to have access to any animal by-product (other than milk, colostrum or manure) unless it has been—

(a) processed in an approved processing plant;

(b) treated in an approved biogas or composting plant; or

(c) (in the case of digestive tract content) applied to land at least three weeks before the access.

(3) No person shall bring any animal by-product (other than milk, colostrum, manure or digestive tract content) on to any premises where any farmed animal, or any other ruminant animal, pig or poultry, is kept, unless it has been—

(a) processed in an approved processing plant; or

(b) treated in an approved biogas or composting plant.

(4) The preceding paragraph shall not apply to—

(a) animal by-products brought on to premises in a vehicle which enters to collect other by-products providing the by-products brought on to the premises are not removed from the vehicle while on the premises; or

(b) animal by-products brought on to collection centres, petfood plants, incinerators or other approved premises which are situated on the same premises as the animals specified in that paragraph and which were in operation on 1 November 2002 provided that the animals do not have access to the by-products.

(5) No person shall allow any animals to have access to material in a biogas or composting plant, except that it is not an offence for wild birds to have access to the material during the secondary or subsequent phase of composting.

(6) In this regulation "animal by-product" includes catering waste of all kinds, including catering waste to which the Community Regulation does not apply because of Article 1(2)(e) of that Regulation.

(7) This regulation does not prohibit feeding animal by-products to animals under Article 23(2) of the Community Regulation as enforced by regulation 26(3) of these Regulations.

(8) Any person who fails to comply with any provision of this regulation shall be guilty of an offence.

Restrictions on use

10. Any person who fails to comply with Article 22(1) of the Community Regulation shall be guilty of an offence.

Pasture land

11.—(1) For the purposes of Article 22(1)(c) of the Community Regulation, pasture land is land that is intended to be used for grazing or cropping for feedingstuffs following the application or deposit of organic fertilisers and soil improvers within the following periods—

(a) two months in the case of pigs; and

(b) three weeks in the case of other farmed animals.

(2) Any person who—

(a) uses pasture land for grazing within the period specified in paragraph (1); or

(b) feeds to pigs or other farmed animals within that period anything cropped from pasture land during that period;

shall be guilty of an offence.

Intra-species recycling of fish

12.—(1) Notwithstanding regulation 10, it shall not be an offence under these Regulations to feed fish with processed animal protein derived from the bodies or parts of bodies of fish (other than farmed fish of the same species) if this is done in accordance with Articles 2 to 4 of, and Annex I to, Commission Regulation (EC) No. 811/2003.

(2) The Secretary of State shall be the competent authority for the purposes of Article 5 of Commission Regulation (EC) No. 811/2003.

(3) In accordance with Article 10 of Commission Regulation (EC) No. 811/2003, this regulation shall not apply until 1 January 2004.

PART 4

Approved premises and competent authorities

The competent authority

13.—(1) The Secretary of State shall be the competent authority for the purposes of granting approvals under Chapter III and Chapter IV of the Community Regulation, the Annexes to that Regulation, and these Regulations.

(2) She shall also be the competent authority for—

(a) checking intermediate plants in accordance with Articles 10(2)(d) and 10(3)(d) of the Community Regulation;

(b) checking storage plants in accordance with Article 11(2)(b) of that Regulation;

(c) validating and checking Category 1 and Category 2 processing plants in accordance with Articles 13(2)(c) and 13(2)(e) of that Regulation, supervising Category 1, 2 and 3 plants in accordance with Annex V, Chapter IV, paragraph 1 to that Regulation, and validating those plants in accordance with Annex V, Chapter V, paragraph 1 to that Regulation;

(d) authorising the temporary use of a Category 2 processing plant for the processing of Category 1 material in accordance with Annex VI, Chapter 1, paragraph 2 to that Regulation;

(e) checking oleochemical plants in accordance with Article 14(2)(d) of that Regulation and shall be the person to whom records shall be produced in accordance with Article 14(2)(c) of that Regulation;

(f) checking biogas plants and composting plants in accordance with Article 15(2)(c) of that Regulation;

(g) validating and checking Category 3 processing plants in accordance with Article 17(2)(c) and 17(2)(e) of that Regulation;

(h) authorising the temporary use of a Category 3 processing plant for the processing of Category 1 or Category 2 material in accordance with Annex VII, Chapter 1, paragraph 2 to that Regulation, or the use of a Category 2 processing plant as a collection centre in accordance with Annex IX, paragraph 3 to that Regulation;

(i) presentation of records relating to a petfood or technical plant in accordance with Article 18(2)(a)(iv) of that Regulation;

(j) recognising laboratories for the purposes of analysing samples from petfood and technical plants in accordance with Article 18(2)(a)(iii) of that Regulation, receiving information under Article 18(2)(a)(v) of that Regulation, and checking petfood plants and technical plants in accordance with Article 18(2)(b) of that Regulation;

(k) carrying out inspection and supervision in accordance with Article 26 of that Regulation;

(l) giving instructions for the purposes of Annex II, Chapter II, paragraph 4 to that Regulation;

(m) the presentation of commercial documents under Annex II, Chapter V to that Regulation;

(n) authorising a representative point in the combustion chamber of an incinerator in accordance with Annex IV, Chapter II, paragraph 3 to that Regulation, and inspecting them in accordance with Annex IV, Chapter VII, paragraph 8 to that Regulation(**12**);

(o) authorising specific requirements in accordance with Annex VI, Chapter II, Part C, paragraphs 14 and 15 to that Regulation(**13**).

Approval of premises

14.—(1) No person shall operate any—

(a) category 1, 2 or 3 intermediate plant;

(b) storage plant;

(c) incineration or co-incineration plant;

(d) category 1 or category 2 processing plant;

(e) category 2 or category 3 oleochemical plant;

(f) biogas or composting plant;

(g) category 3 processing plant;

(h) petfood or technical plant; or

for the storage, processing, treatment, disposal or use of animal by-products unless the premises, the operator of the premises and any equipment are approved for that purpose in accordance with these Regulations and the Community Regulation.

(**12**) Chapter VII was added to Annex IV by Commission Regulation (EC) No. 808/2003.
(**13**) These paragraphs were added by Commission Regulation (EC) No. 808/2003.

(2) The operator of approved premises shall ensure that—

(a) the premises are maintained and operated in accordance with—

(i) the conditions of approval, and

(ii) the requirements of the Community Regulation and these Regulations; and

(b) any person employed by him, and any person permitted to enter the premises complies with those conditions and requirements.

(3) The operator of a high capacity incineration plant shall dispose of the ash in accordance with Annex IV, Chapter VII, paragraph 4 to the Community Regulation in the same way as the operator of a low capacity incineration plant.

(4) Any person who fails to comply with any provision of this regulation shall be guilty of an offence.

Biogas and composting plants

15.—(1) The provisions of Part I of Schedule 1 to these Regulations shall apply in a biogas and composting plant used for treating any animal by-products (including catering waste) in addition to the requirements of paragraphs 1 to 11 of Annex VI, Chapter II to the Community Regulation.

(2) In accordance with Article 6(2)(g) and Annex VI, Chapter II, paragraph 14 to the Community Regulation—

(a) catering waste shall be treated in a biogas or composting plant either in accordance with Annex VI, Chapter II, paragraphs 12 or 13 to the Community Regulation or in accordance with Part II of Schedule 1 to these Regulations; and

(b) any other animal by-product treated in a biogas or composting plant shall be treated in accordance with Annex VI, Chapter II, paragraphs 12 or 13 to the Community Regulation.

(3) Any person who fails to comply with any provision of this regulation shall be guilty of an offence.

Composting catering waste on the premises on which it originates

16. In accordance with Article 6(2)(g) of and Annex VI, Chapter II, paragraph 14 to the Community Regulation, the provisions of that Chapter and of regulation 14(1)(f) above do not apply to the composting of Category 3 catering waste on the premises on which it originates provided that—

(a) the decomposed material is only applied to land at those premises;

(b) no ruminant animals or pigs are kept at the premises; and

(c) if poultry is kept at the premises the material is composted in a secure container which prevents the poultry having access to it during decomposition.

Processing and intermediate plants' own checks

17.—(1) Any person who fails to comply with Article 25(1) of the Community Regulation shall be guilty of an offence.

(2) Any person who fails to comply with Article 25(2) of the Community Regulation shall be guilty of an offence.

(3) The operator shall record the action taken in accordance with Article 25(2) of the Community Regulation, and failure to do so shall be an offence.

Sampling at processing plants

18.—(1) If a processing plant is processing Category 1 or Category 2 material, and the processed material is to be sent to landfill (or, in the case of Category 2 material, a biogas or composting plant) the operator shall, once every week—

(a) take from the outlet of the cooker in which the material is processed a sample of at least 50 grams of processed material; and

(b) send the sample to a laboratory approved to test it for *Clostridium perfingens*.

(2) In the case of Category 3 processing plants, where the processed material is intended for use in feedingstuffs the operator shall—

(a) take a representative sample of the material on each day that the material is consigned from the premises, and

(b) send it to a laboratory approved to test it for Salmonella and *Enterobacteriaceae* .

(3) In the case of Category 3 processing plants, where the processed material is not intended for use in feedingstuffs the operator shall—

(a) take a sample once every week of the material that is consigned from the premises; and

(b) send the sample to a laboratory approved to test it for Salmonella and *Enterobacteriaceae*.

(4) Any person who fails to comply with any provision of this regulation shall be guilty of an offence.

Sampling at biogas and composting plants

19.—(1) In the case of biogas and composting plants the operator shall, at intervals specified in the approval, take a representative sample of material that been treated to the time temperature parameters specified in Part II of Schedule 1 to these Regulations or the Community Regulation and send it for testing for Salmonella and *Enterobacteriaceae* (or, in the case of material derived from catering waste, Salmonella only) in a laboratory approved to carry out those tests.

(2) No person shall consign any material from a biogas or composting plant until the results of the test are received from the laboratory.

(3) In the event of tests establishing that treated material does not comply with the limits in Annex VI, Chapter II, paragraph 15 to the Community Regulation, the operator shall—

(a) immediately notify the Secretary of State, giving full details of the failure, the nature of the sample and the batch from which it was derived;

(b) ensure that no digestion residue or compost suspected or known to be contaminated is moved from the premises unless—

(i) it has been re-treated under the supervision of the Secretary of State and resampled and re-tested by the Secretary of State, and the re-testing has shown that the re-treated digestion residue or compost complies with the standards in the Community Regulation; or

(ii) it is consigned for processing or incineration at an approved processing plant or incinerator or (in the case of catering waste) it is consigned to landfill; and

(c) record the action taken in accordance with this regulation.

(4) Any person who fails to comply with any provision of this regulation shall be guilty of an offence.

Samples sent to laboratories

20.—(1) Whenever an operator sends a sample to a laboratory in accordance with this Part, he shall send with the sample the following information in writing—

(a) the name and address of the premises at which the sample was taken;

(b) the date on which the sample was taken; and

(c) the description and identity of the sample.

(2) It shall be an offence for any person to tamper with a sample taken under these Regulations with intent to affect the result of the test.

(3) The operator shall keep a record of all results of laboratory tests.

(4) Any person who fails to comply with any provision of this regulation shall be guilty of an offence.

Laboratories

21.—(1) The Secretary of State shall approve laboratories under this regulation to carry out one or more of the tests in this regulation if she is satisfied that they have the necessary facilities, personnel and operating procedures to do so.

(2) In deciding whether to grant or continue an approval, the Secretary of State may require the laboratory to successfully undertake any quality control tests as she reasonably thinks fit.

(3) The operator of a laboratory approved under this regulation carrying out tests for the purposes of these Regulations or the Community Regulation shall do so in accordance with the following provisions, and failure to do so shall be an offence.

(4) A test for *Clostridium perfingens* shall be carried out in accordance with the method in Schedule 2 or (if specified in the approval) with a method which conforms with ISO 7937/1997 (BS-EN 13401:1999) (Enumeration of *Clostridium perfingens*) or equivalent(**14**).

(5) A test for Salmonella shall be carried out in accordance with the method in Schedule 2 or (if specified in the approval) with a method that conforms with—

(a) ISO 6579/2002 (BS-EN 12824:1998) (Detection of Salmonella) or equivalent(**15**); or

(b) NMKL 71: 1993 or equivalent(**16**).

(6) A test for *Enterobacteriaceae* shall be carried out in accordance with the method in Schedule 2 or (if specified in the approval) with a method which conforms with ISO 7402/1993 (BS 5763: Part 10: 1993) (Enumeration of *Enterobacteriaceae*) or equivalent(**17**).

(7) Where tests are carried out for the detection of any of the following, the operator of a laboratory approved under this regulation shall immediately notify the Secretary of State and the operator of the premises if—

(a) the tests fail to establish that the material is free from *Clostridium perfringens*;

(b) the tests fail to establish that the material is free from Salmonella; or

(c) the material successfully passes the test for *Enterobacteriaceae* in paragraph 5 Part III of Schedule 2.

and failure to do so shall be an offence.

(**14**) Published by the British Standards Institute, British Standards House, 389 Chiswick High Road, London W4 4AL.
(**15**) Published by the British Standards Institute; see above.
(**16**) Published by the British Standards Institute; see above.
(**17**) Published by the British Standards Institute; see above.

(8) The operator of a laboratory approved under this regulation shall in relation to processed material notify the Secretary of State on the last day of each month of the number, type and results of tests carried out, and failure to do so shall be an offence.

(9) Reprocessing in accordance with Article 25(2)(c) and (d) of the Community Regulation shall be carried out under the supervision of the Secretary of State.

(10) If the sample has been sent to the approved laboratory from premises outside England, the requirements in this regulation to notify the Secretary of State shall be construed as a requirement to notify the competent authority for the premises from which the sample was sent.

PART 5

Placing animal by-products and processed products on the market

Placing on the market of processed animal protein and other processed products that could be used as feed material

22. Any person who places on the market processed animal protein or other processed products that could be used as feed material which do not meet the requirements of Article 19 of the Community Regulation shall be guilty of an offence.

Placing on the market of petfood, dogchews and technical products

23.—(1) Any person who places on the market petfood, dogchews, technical products (other than fat derivatives produced from category 2 material) or those animal by-products referred to in Annex VIII to that Regulation, which do not meet the requirements of Article 20(1) of the Community Regulation shall be guilty of an offence.

(2) Any person who places on the market fat derivatives produced from category 2 material which do not meet the requirements of Article 20(3) of the Community Regulation shall be guilty of an offence.

Placing on the market of compost or digestion residues for use on agricultural land

24. Any person who places on the market compost or digestion residues for use on agricultural land shall ensure that it is labelled or accompanied by documentation in such a way that the recipient has his attention drawn to the requirements of regulation 11 above (provisions relating to pasture land) and any person who fails to do so shall be guilty of an offence.

PART 6

Derogations

Competent authority for Chapter V of the Community Regulation

25. The Secretary of State shall be the competent authority for the purposes of Chapter V of the Community Regulation (derogations).

Derogations regarding the use of animal by-products

26.—(1) The use of animal by-products for diagnostic, educational or research purposes is permitted if it is in accordance with an authorisation.

(2) The use of animal by-products for taxidermy is permitted if—

(a) it is in accordance with an authorisation; and

(b) it is in an approved technical plant.

(3) The feeding of animal by-products specified in Article 23(2)(b) of the Community Regulation to—

(a) zoo animals;

(b) circus animals;

(c) reptiles and birds of prey other than zoo or circus animals;

(d) dogs from recognised kennels or recognised packs of hounds; or

(e) maggots for fishing bait,

is permitted if it is in accordance with an authorisation.

(4) The Secretary of State shall maintain a register of premises used for the feeding of such animal by-products to zoo or circus animals, dogs from recognised kennels or recognised packs of hounds and maggots for fishing bait.

(5) The register in the previous paragraph shall contain the following information—

(a) the name of the operator;

(b) the address of the premises; and

(c) the business carried on at the premises.

(6) Any person who uses animal by-products for any of the purposes in this regulation other than in accordance with an authorisation shall be guilty of an offence.

Collection centres

27.—(1) For the purposes of Article 23(2) of the Community Regulation no person shall operate a collection centre, as defined in Annex I to the Community Regulation, for the purposes of feeding animal by-products to—

(a) dogs from recognised kennels or recognised packs of hounds; or

(b) maggots for fishing bait;

unless the premises and the operator of the premises are authorised.

(2) The operator of the authorised premises shall—

(a) ensure that the premises are maintained and operated in accordance with—

(i) the conditions of the authorisation; and

(ii) the requirements of the Community Regulation and these Regulations; and

(b) ensure that any person employed by him, and any person invited to the premises complies with these conditions and requirements.

(3) Any person who fails to comply with any provision of this regulation shall be guilty of an offence.

Burial of pet animals

28. In accordance with Article 24(1)(a) of the Community Regulation, dead pet animals may be buried.

Remote areas

29.—(1) Only the Isles of Scilly and Lundy Island are remote areas for the purposes of Article 24(1)(b) of the Community Regulation and accordingly the animal by-products referred to in that sub-paragraph and originating in those areas may be disposed of by burning or burial on site provided that this is done in accordance with Part C of Annex II to Commission Regulation (EC) No. 811/2003(**18**).

(2) The Secretary of State shall be the competent authority for the purposes of Article 7 of, and Part C of Annex II to, Commission Regulation (EC) No. 811/2003.

Burial in the event of a disease outbreak

30.—(1) In accordance with Article 24(1)(c) of the Community Regulation, if there is an outbreak of disease mentioned in List A of the International Office of Epizootic Diseases, on site burning or burial (as defined in Part A of Annex II to Commission Regulation (EC) No. 811/2003) of animal by-products shall not be an offence if the animal by-product is transported, and buried or burnt, in accordance with—

(a) a notice given by the Secretary of State under Article 24(1)(c) authorising disposal in accordance with that provision; and

(b) the provisions of Article 6 of and Part B of Annex II to Commission Regulation (EC) No. 811/2003.

(2) The Secretary of State shall be the competent authority for the purposes of Article 6 of and Part B of Annex II to Commission Regulation (EC) No. 811/2003.

Burning and burial of bees and apiculture products

31. In accordance with Article 8 of Commission Regulation (EC) No. 11/2003, bees and Category 2 apiculture products may be disposed of by burial or burning on site if this is done in accordance with that Article.

PART 7

Records

Records

32. Any record required to be kept under these Regulations may be in written or electronic form and shall be kept for at least two years.

Records for consigning, transporting or receiving animal by-products

33. Any person who fails to comply with Article 9(1) of the Community Regulation shall be guilty of an offence.

Records for burying or burning of animal by-products

34. Any person who fails to comply with Article 9 of Commission Regulation (EC) No. 811/2003 shall be guilty of an offence.

(**18**) OJ No. L117, 13.5.2003, p. 14.

Records for disposal or use on premises

35.—(1) Subject to paragraph (2), an operator of any premises who disposes or uses any animal by-product (other than manure or material excluded from the Community Regulation by Article 1(2) of that Regulation), or processed product on the premises shall make on disposal or use a record of each disposal or use, showing the date on which the animal by-product was disposed of or used and the quantity and description of the material disposed of or used, and failure to do so shall be an offence.

(2) The requirement in paragraph (1) shall not apply to disposal on the premises by feeding of animal by-products or processed products to reptiles and birds of prey other than zoo or circus animals.

Delivery records to be kept by operators of biogas and composting plants

36. The operator of any biogas or composting plant receiving catering waste shall record—

(a) the date on which the catering waste was delivered to the premises;

(b) the quantity and description of the catering waste, including a statement of whether measures were taken at source to ensure that meat was not included in the waste; and

(c) the name of the haulier;

and failure to do so shall be an offence.

Treatment records for biogas and composting plants

37. The operator of a biogas or composting plant treating catering waste or other animal by-products shall record—

(a) the dates on which the material is treated;

(b) a description of the material treated;

(c) the quantity of material treated;

(d) the result of all checks carried out at the critical points identified under paragraph 3 of Part I of Schedule 1; and

(e) sufficient information to show that the material has been treated to the required parameters;

and failure to do so shall be an offence.

Records for approved laboratories

38. The operator of a laboratory approved under regulation 21 shall record—

(a) the name and address of the premises at which the sample was taken;

(b) the date on which the sample was taken;

(c) the description and identity of the sample;

(d) the date on which the sample was received at the laboratory;

(e) the date on which the sample was tested at the laboratory; and

(f) the result of the test;

and failure to do so shall be an offence.

Records to be kept for consignments of compost or digestion residue

39.—(1) Subject to paragraph (2), the occupier of premises on which ruminant animals, pigs or poultry are kept shall record—

(a) the date on which compost or digestion residue is brought on to those premises;

(b) the quantity and description of the compost or digestion residue;

(c) the land to which the compost or digestion residue is applied;

(d) the date of such application; and

(e) the date on which the land is first cropped or the date on which ruminant animals, pigs or poultry were allowed access to the land, whichever is the sooner;

and failure to do so shall be an offence.

(2) The requirement in paragraph (1) to make records shall not apply in the case of any supply of compost or digestion residue for use at any premises used only as a dwelling.

PART 8

Administration and enforcement

Grant of approvals

40.—(1) The Secretary of State shall grant an approval under these Regulations if she is satisfied that the requirements of the Community Regulation and these Regulations will be complied with.

(2) An approval shall specify—

(a) the address of the premises and the operator of the premises;

(b) the parts of the premises in which the animal by-products may be received and processed or treated; and

(c) the equipment, the methods in accordance with which, and the parameters within which, the animal by-products must be processed or treated.

(3) If the Secretary of State refuses to grant the approval, or approves it subject to a condition she shall by notice in writing served on the applicant—

(a) give the reasons; and

(b) explain the right of the applicant to make written representations to the Secretary of State and to be heard by an independent person appointed by the Secretary of State.

Suspension, amendment and revocation of approvals and registrations

41.—(1) The Secretary of State, by notice in writing served on the operator—

(a) shall suspend immediately an approval or registration if any of the conditions under which the approval was granted are not fulfilled, and

(b) may suspend or amend an approval or registration if she is satisfied that the provisions of the Community Regulation or these Regulations are not being complied with.

(2) A suspension or amendment under paragraph 1(b)—

(a) shall have immediate effect if the Secretary of State considers that it is necessary for the protection of public or animal health;

(b) otherwise shall not have effect for at least 21 days following service of the notice.

(3) The notice shall—

(a) give the reasons; and

(b) explain the right of the operator of the premises to make written representations to the Secretary of State and to be heard by an independent person appointed by the Secretary of State.

(4) Where there is an appeal under regulation 42, an amendment or suspension shall not have effect until the final determination by the Secretary of State in accordance with the following regulation unless the Secretary of State considers that it is necessary for the protection of public or animal health for the amendment or suspension to have immediate effect.

(5) The Secretary of State may by notice in writing revoke an approval if, following an appeal, if any, in accordance with the following regulation, which upholds a suspension, she is satisfied, taking into account all the circumstances of the case, that the premises will not be operated in accordance with these Regulations and the Community Regulation.

Appeals

42.—(1) A person on whom a notice is served under regulation 40 or 41 may within 21 days beginning with the day on which the notice is served—

(a) provide written representations to the Secretary of State; and

(b) provide notice of whether or not he wishes to appear before an independent person appointed by the Secretary of State.

(2) Where an appellant gives notice of his wish to appear before and be heard by an independent person—

(a) the Secretary of State shall appoint an independent person to hear representations and specify a time limit within which representations must be made;

(b) the appointed person shall not, except with the consent of the appellant, be an officer of the Secretary of State;

(c) if the appellant so requests the hearing shall be in public;

(d) if the appellant so requests, the Secretary of State shall furnish to him a copy of the report of the person so appointed.

(3) The independent person shall report to the Secretary of State.

(4) The Secretary of State shall give to the appellant written notification of her final determination and the reasons for it.

Notice requiring the disposal of animal by-products or catering waste

43. If an inspector considers it necessary for animal or public health purposes or if any provision of these Regulations or the Community Regulation is not being complied with, he may—

(a) serve a notice on any person in possession or control of any animal by-product requiring him to dispose of it as may be specified in the notice; or

(b) serve a notice on the occupier of any premises prohibiting animal by-products being brought on to the premises, or only permitting this in a way specified in the notice.

Cleansing and disinfection

44.—(1) If an inspector reasonably suspects that any vehicle, container or premises to which these Regulations or the Community Regulation apply constitutes an animal or public health risk, he may serve a notice on the person in charge of the vehicle or container, or on the occupier of the premises, requiring the vehicle, container or premises to be cleansed and disinfected.

(2) The notice may—

(a) specify the method of cleansing and disinfection;

(b) specify the method of disposal of any material remaining in the vehicle, container or premises; and

(c) prohibit the movement of any animal by-product into the vehicle or container or on to the premises until such time as the required cleansing and disinfection has been satisfactorily completed.

Compliance with notices

45.—(1) Any notice served under these Regulations shall be complied with at the expense of the person on whom the notice is served, and if it is not complied with, an inspector may arrange for it to be complied with at the expense of that person.

(2) Any person on whom a notice is served who contravenes or fails to comply with the provisions of that notice shall be guilty of an offence.

Powers of entry

46.—(1) An inspector shall, on producing, if so required, some duly authenticated document showing his authority, have a right at all reasonable hours, to enter any premises (excluding any premises used only as a dwelling) for the purpose of administering and enforcing these Regulations and the Community Regulation; and in this regulation "premises" includes any vehicle or container.

(2) An inspector may—

(a) seize any animal by-products and dispose of them as necessary;

(b) carry out any inquiries, examinations and tests;

(c) take any samples;

(d) have access to, and inspect and copy any records (in whatever form they are held) kept under these Regulations or the Community Regulation, or remove such records to enable them to be copied;

(e) have access to, inspect and check the operation of, any computer and any associated apparatus or material which is or has been in use in connection with the records; and for this purpose may require any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material to afford him such assistance as he may reasonably require and, where a record is kept by means of a computer, may require the records to be produced in a form in which they may be taken away;

(f) mark any animal, animal by-product or other thing for identification purposes; and

(g) take with him—

(i) such other persons as he considers necessary; and

(ii) any representative of the European Commission acting for the purpose of the Community Regulation.

(3) Any person who defaces, obliterates or removes any mark applied under paragraph (2) shall be guilty of an offence.

(4) If an inspector enters any unoccupied premises he shall leave them as effectively secured against unauthorised entry as he found them.

Obstruction

47.—(1) Any person who—

(a) intentionally obstructs any person acting in the execution of these Regulations;

(b) without reasonable cause, fails to give to any person acting in the execution of these Regulations any assistance or information which that person may reasonably require of him for the performance of his functions under these Regulations;

(c) furnishes to any person acting in the execution of these Regulations any information which he knows to be false or misleading, or

(d) fails to produce a record when required to do so to any person acting in the execution of these Regulations;

shall be guilty of an offence.

(2) Nothing in paragraph (1)(b) shall be construed as requiring any person to answer any question if to do so might incriminate him.

Penalties

48.—(1) A person guilty of an offence under these Regulation shall be liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding six months or both, or

(b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or both.

(2) Where a body corporate is guilty of an offence under these Regulations, and that offence is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of—

(a) any director, manager, secretary or other similar person of the body corporate, or

(b) any person who was purporting to act in any such capacity,

he, as well as the body corporate, shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(3) For the purposes of paragraph (2) above, "director", in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.

Enforcement

49.—(1) These Regulations shall be enforced by the Secretary of State in relation to—

(a) premises which are licensed under the Fresh Meat (Hygiene and Inspection) Regulations 1995(**19**);

(b) premises which are licensed under the Poultry Meat, Farmed Game Bird Meat and Rabbit Meat (Hygiene and Inspection) Regulations 1995(**20**);

(c) premises which are licensed under the Wild Game Meat (Hygiene and Inspection) Regulations 1995(**21**);

(d) combined premises as defined in the Meat Products (Hygiene) Regulations 1994(**22**); and

(**19**) S.I. 1995/539 as amended by S.I. 1995/731, S.I. 1995/1763, S.I. 1995/2148, S.I. 1995/2200, S.I. 1995/3124, S.I. 1995/3189, S.I. 1996/1148, S.I. 1996/2235, S.I. 1997/1729, S.I. 1997/2074, S.I. 2000/225, S.I. 2000/656, S.I. 2000/2215, S.I. 2001/1512, S.I. 2001/1739, S.I. 2001/1771, S.I. 2001/2601, S.I. 2001/3451, S.I. 2002/118 and S.I. 2002/889.

(**20**) S.I. 1995/540 as amended by S.I. 1995/1763, S.I. 1995/2148, S.I. 1995/2200, S.I. 1995/3205, S.I. 1997/1729, S.I. 2000/225, S.I. 2000/656, S.I. 2000/2215, S.I. 2001/3399, S.I. 2002/889.

(**21**) S.I. 1995/2148 as amended by S.I. 1995/3205 and S.I. 1995/656.

(**22**) S.I. 1994/3082 as amended by S.I. 1995/534, S.I. 1995/1763, S.I. 1995/2200, S.I. 1995/3205, S.I. 1996/1499, S.I. 1999/683, S.I. 2000/225, S.I. 2000/656, S.I. 2000/790 and S.I. 2000/2215.

(e) combined premises as defined in the Minced Meat and Meat Preparations (Hygiene) Regulations 1995(**23**).

(2) Other than as specified in paragraph (1) these Regulations shall be enforced by the local authority.

(3) The Secretary of State may direct, in relation to cases of a particular description or any particular case, that an enforcement duty imposed on a local authority under this regulation shall be discharged by the Secretary of State and not by the local authority.

Transitional measures

50.—(1) Schedule 3 (transitional measures) shall have effect.

(2) Part I of Schedule 3 (intra-species recycling of fish) shall cease to have effect on 1 January 2004.

(3) Part II of Schedule 3 (collection, transportation and disposal of former foodstuffs) shall cease to have effect on 1 January 2006.

(4) Part III of Schedule 3 (used cooking oil in animal feed) shall cease to have effect on 1 November 2004.

(5) Part IV of Schedule 3 (disposal of mammalian blood) shall cease to have effect on 1 January 2005.

(6) Part V of Schedule 3 (oleochemical plants using rendered fats from category 2 and 3 materials) shall cease to have effect on 1 November 2005.

(7) Part VI of Schedule 3 (low capacity incinerators) shall cease to have effect on 1 January 2005.

Amendments and revocations

51.—(1) The TSE (England) Regulations 2002 are amended in accordance with Schedule 4.

(2) In so far as they extend to England, the Animal By-Products Order 1999(**24**) and the Animal By-Products (Amendment) (England) Order 2001(**25**) are revoked.

Elliot Morley
Parliamentary Under Secretary of State
Department for Environment, Food and Rural Affairs

4th June 2003

(**23**) S.I. 1995/3205 as amended by S.I. 1996/3124, S.I. 2000/225, S.I. 2000/656 and S.I. 2000/2215.
(**24**) S.I. 1999/646.
(**25**) S.I. 2001/1704.

SCHEDULE 1 Regulation 15

ADDITIONAL REQUIREMENTS FOR BIOGAS AND COMPOSTING PLANTS

PART 1

PREMISES

1.—(1) There shall be—

(a) a reception area in which untreated animal by-products (including catering waste) are received;

(b) an area in which vehicles and containers are cleansed and disinfected with adequate facilities for doing this; and

(c) a clean area in which treated compost or digestion residues are stored.

(2) The clean area shall be adequately separated from the reception area and the area in which vehicles and containers are cleansed and disinfected so as to prevent contamination of the treated material. Floors shall be laid so that liquid cannot seep into the clean area from the other areas.

(3) The reception area shall be easy to clean and disinfect and shall have an enclosed and lockable place or container to receive and store the untreated animal by-products.

2. The animal by-products shall be unloaded in the reception area and either—

(a) treated immediately; or

(b) stored in the reception area and treated without undue delay.

3. The plant shall be operated in such a way that—

(a) treated material is not contaminated by untreated or partially treated material or liquids arising from it; and

(b) partially treated material is not contaminated with material which has not been treated to the same extent or liquids arising from it.

4. The operator shall identify, control and monitor suitable critical points in the operation of the plant to demonstrate that—

(a) these Regulations and the Community Regulation are complied with;

(b) treated material is not contaminated by untreated or partially treated material or liquids arising from it; and

(c) partially treated material is not contaminated with material which has not been treated to the same extent or liquids arising from it.

5. Containers, receptacles and vehicles used for transporting untreated animal by-products shall be cleaned in the dedicated area before they leave the premises and before any treated material is loaded. In the case of vehicles transporting only untreated catering waste and not subsequently transporting treated material, only the wheels of the vehicle need be cleaned.

PART II

TREATMENT SYSTEMS AND PARAMETERS FOR CATERING WASTE

1. Unless an approval specifically permits a different system, catering waste shall be treated by one of the systems specified in the table below. The system shall ensure that the material is treated to the following parameters:

Composting

System	***Composting in a closed reactor***	***Composting in a closed reactor***	***Composting in housed windrows***
Maximum particle size	40cm	6cm	40cm
Minimum temperature	60°C	70°C	60°C
Minimum time spent at the minimum temperature	2 days	1 hour	8 days (during which the windrow shall be turned at least 3 times at no less than 2 days intervals)

The time temperature requirements shall be achieved as part of the composting process.

Biogas

System	***Biogas in a closed reactor***	***Biogas in a closed reactor***
Maximum particle size	5cm	6cm
Minimum temperature	57°C	70°C
Minimum time spent at the minimum temperature	5 hours	1 hour

2. The approval shall normally specify one of the methods in the table, but the Secretary of State may approve a different system if she is satisfied that it achieves the same reduction in pathogens as those methods (including any additional conditions imposed on those methods) in which case the approval shall fully describe the whole system.

Composting plants

3. If the approval for a composting plant specifies one of the methods in the table, it shall specify which one and, in addition, shall have as a condition either that—

(a) measures shall be taken at source to ensure that meat was not included in the catering waste and that following treatment the material is stored for at least 18 days, or

(b) following the first treatment, the material shall be treated again using one of the methods in the table and specified in the approval (not necessarily the same method as was used for the first treatment) except that, if the treatment is in a windrow, the second treatment need not be in a housed windrow.

Biogas plants

4. The approval for a biogas plant shall specify one of the methods in the table and in addition require that either—

(a) measures were taken at source to ensure that meat was not included in the catering waste; or

(b) following treatment the material is stored for an average of 18 days after treatment (storage need not be in an enclosed system).

SCHEDULE 2 Regulation 21

TESTING METHODS

PART I

METHOD FOR THE ISOLATION OF *CLOSTRIDIUM PERFRINGENS*

Time of testing

1. Tests shall be begun on receipt of the sample or on the first working day which allows this method to be completed. If the test is not begun on the day of receipt the sample shall be stored in a refrigerator at between 2°C and 8°C until required. If the sample has been refrigerated it shall be removed from the refrigerator and stored at room temperature for at least one hour before the test is started.

Samples

2. Tests shall be carried out using two 10 gram portions of each sample submitted for testing. Each 10 gram sample shall be placed aseptically in a sterile container containing 90 ml *Clostridium perfringens* diluent consisting of 0.1% peptone and 0.8% sodium chloride at a pH of 7 and mixed thoroughly until the sample is evenly suspended.

Inoculations

3. For each portion of the sample 1 ml of solution shall be transferred to a sterile 90 mm petri dish (in duplicate), to which 15 ml of Shahidi - Ferguson agar (SF agar)(**26**) at a temperature of 47°C±1°C shall be added and immediately gently mixed by swirling the dish with 5 clockwise and 5 anticlockwise circular movements.

4. Once the agar has set, each agar plate shall be overlaid with a further 10 ml SF agar at a temperature of 47°C±1°C. Once the overlay has set and with the plate lids uppermost the plates shall be incubated anaerobically at 37°C±1°C for 20 hours±2 hours.

Samples with colonies of Clostridium perfringens

5. After incubation each set of duplicate plates shall be examined for colonies characteristic of *Clostridium perfringens* (black). The sample provisionally fails if any colonies characteristic of *Clostridium perfringens* are present, in which case the following procedure shall be followed to establish whether or not the colonies are *Clostridium perfringens*.

(**26**) Shahidi-Ferguson agar—See Shahidi, S. A. and Ferguson, A. R. (1971) Applied Microbiology 21:500-506. American Society for Microbiology, 1913 1 St N.W., Washington DC 20006, USA.

6. In the case of each plate, 10 characteristic colonies of *Clostridium perfringens* shall be subcultured on to a further SF agar plate. If there are less than 10 colonies on the plate, all characteristic colonies shall be subcultured on to the further plate. The plates shall be incubated anaerobically at 37°C±1°C for 20 hours±2 hours.

7. If the surface area of the plates is overgrown and it is not possible to select well isolated characteristic colonies, 10 suspect colonies shall be subcultured on to duplicate SF agar plates and incubated anaerobically at 37°C±1°C for 20 hours±2 hours.

8. One characteristic colony from each plate shall be subcultured on to SF agar and incubated anaerobically at 37°C±1°C for 20 hours±2 hours.

Subcultured colonies

9. After incubation each plate shall be examined for colonies characteristic of *Clostridium perfringens*. All colonies characteristic of *Clostridium perfringens* shall be—

(a) stab inoculated into motility nitrate medium(**27**); and

(b) inoculated into either lactose gelatin medium(**28**) or charcoal gelatin discs(**29**);

and incubated anaerobically at 37°C±1°C for 20 hours±2 hours.

Examination of subcultures

Motility

10. The motility nitrate medium shall be examined for the type of growth along the stab line. If there is evidence of diffuse growth out into the medium away from the stab line, the bacteria shall be considered to be motile.

Reduction of nitrate to nitrite

11. After examination of the motility nitrate medium, 0.2 ml to 0.5 ml of nitrite detection reagent shall be added to it. The formation of a red colour confirms that the bacteria have reduced nitrate to nitrite. Cultures that show a faint reaction (i.e. a pink colour) should be discounted. If no red colour is formed within 15 minutes, a small amount of zinc dust shall be added and the plate allowed to stand for 15 minutes. If a red colour is formed after the addition of zinc dust no reduction of nitrate to nitrite has taken place.

Production of gas and acid from lactose and liquefaction of gelatin

12. The lactose gelatin medium shall be examined for the presence of small gas bubbles in the medium.

13. The lactose gelatin medium shall be examined for colour. A yellow colour indicates fermentation of lactose.

14. The lactose gelatin medium shall be chilled for one hour at 2 – 8°C and then checked to see if the gelatin has liquefied. If the medium has solidified it shall be re-incubated anaerobically for a

(**27**) Motility nitrate medium—See Hauschild AHW, Gilbert RJ, Harmon SM, O'Keefe MF, Vahlefeld R, (1997) ICMSF Methods Study VIII, Canadian Journal of Microbiology 23, 884-892. National Research Council of Canada, Ottawa ON K1A oR6, Canada.

(**28**) Lactose gelatin medium—See Hauschild AHW, Gilbert RJ, Harmon SM, O'Keefe MF, Vahlefield R, (1997) ICMSF Methods Study VIII, Canadian Journal of Microbiology 23, 884-892.

(**29**) Charcoal gelatin discs—See Mackie and McCartney, (1996) Practical Medical Microbiology 14, 509. Churchill Livingstone, Robert Stevenson House, 1-3 Baxter's Place, Leith Walk, Edinburgh EH1 3AF.

further 18 – 24 hours, the medium chilled for a further one hour at 2 – 8°C and again checked to see if the gelatin has liquefied.

15. The presence of *Clostridium perfringens* shall be determined on the basis of the results from paragraphs 10 to 14. Bacteria which produce black colonies on SF agar, are non-motile, reduce nitrate to nitrite, produce gas and acid from lactose and liquefy gelatin within 48 hours shall be considered to be *Clostridium perfringens*.

Control Tests

16. Control tests shall be carried out each day that a test is initiated using—

(a) *Clostridium perfringens* no more than seven days old at the time of use;

(b) *Escherichia coli*NCTC 10418(**30**) or equivalent not more than seven days old at the time of use; and

(c) processed animal protein or compost or digestion residue which is free of *Clostridium perfringens*.

17. 10 gram portions of the rendered animal protein shall be placed aseptically in each of two sterile containers containing 90 ml Buffered Peptone Water (BPW)(**31**) and mixed thoroughly until the samples are evenly suspended.

18. One colony of *Clostridium perfringens* shall be placed in 10 ml BPW and mixed to form an even suspension. 0.1 ml of the suspension shall be added to the suspension in the preceding paragraph. This shall be repeated for *Escherichia coli*.

19. These are then treated and examined in the same way as test samples. If no typical colonies are formed then that day's testing shall be invalid and shall be repeated.

PART II

METHODS FOR THE ISOLATION OF SALMONELLA

A. BACTERIOLOGICAL METHOD

1. Tests shall be begun on receipt of the sample or on the first working day which allows this method to be completed. If the test is not begun on the day of receipt the sample shall be stored in a refrigerator until required. If the sample has been refrigerated it shall be removed from the refrigerator and stored at room temperature for at least four hours before the test is started.

Day 1

2. Tests shall be carried out in duplicate using two 25 gram portions of each sample submitted for testing. Each 25 gram sample shall be placed aseptically in a container containing 225 ml Buffered Peptone Water (BPW) and incubated at 37°C±1°C for 18 hours±2 hours.

(**30**) The National Collection of Type Cultures, Central Public Health Laboratory, 61 Colindale Ave, London NW9 5HT.

(**31**) Buffered Peptone Water—See Edel, W. and Kampelmacher, E.H. (1973) Bulletin of World Health Organisation, 48: 167-174, World Health Organisation Distribution and Sales, CH-1211, Geneva 27, Switzerland (ISSN 0042-9686).

Day 2

3. 0.1 ml from the container of incubated BPW shall be inoculated into 10 ml Rappaports Vassiliadis broth (RV broth)(**32**) and incubated at 41.5°C±0.5°C for 24 hours ± 3 hours.

Day 3

4. The RV broth shall be plated out on to two 90 millimetre plates of Brilliant Green Agar (BGA)(**33**) or on to one 90 millimetre plate of BGA and one 90 millimetre plate of Xylose Lysine Deoxycholate Agar (XLD)(**34**) using a 2.5 mm diameter loop. The plates shall be inoculated with a droplet taken from the edge of the surface of the fluid by drawing the loop over the whole of one plate in a zig zag pattern and continuing to the second plate without recharging the loop. The space between the loop streaks shall be 0.5 cm – 1.0 cm. The plates shall be incubated at 37°C ±2°C for 24 hours ± 3 hours.

5. The residual RV broth shall be reincubated at 41.5°C±0.5°C for a further 24 hours.

Day 4

6. The plates shall be examined and a minimum of 3 colonies from each plate showing suspicion of Salmonella growth shall be subcultured—

(a) on to a blood agar plate;

(b) on to a MacConkey agar plate(**35**); and

(c) into biochemical media suitable for the identification of Salmonella.

These media shall be incubated at 37°C overnight.

7. The reincubated RV both shall be plated out as described in paragraph 4.

Day 5

8. The incubated composite media or equivalent shall be examined and the findings recorded, discarding cultures which are obviously not Salmonella. Slide serological tests shall be performed using Salmonella polyvalent " O" and polyvalent "H" (phase 1 and 2) agglutinating sera on selected suspect colonies collected from the blood agar or MacConkey plates. If reactions occur with one or both sera, the colonies shall be typed by slide serology and a subculture sent to a Regional Veterinary Laboratory of the Veterinary Laboratories Agency of the Department for Environment, Food and Rural Affairs for further typing.

9. The plates referred to in paragraph 7 shall be examined and further action taken as in paragraph 6 and 8.

B. ELECTRICAL CONDUCTANCE METHOD

1. Tests shall be begun on receipt of the sample or on the first working day which allows the following method to be completed. If the test is not begun on the day of receipt the sample shall be stored in a refrigerator until required. If the sample has been refrigerated it shall be stored at room temperature for at least four hours before the test is started.

(**32**) Rappaports Vassiliadis Broth—See Vassiliadis P, Pateraki E, Papaiconomou N, Papadkis J A, and Trichopoulos D (1976) Annales de Microbiologie (Institut Pasteur) 127B: 195-200. Elsevier, 23 rue Linois, 75724 Paris, Cedex 15, France.

(**33**) Brilliant Green Agar—See Edel W and Kampelmacher E H (1969) Bulletin of World Health Organisation 41:297-306, World Health Organisation Distribution and Sales, CH-1211, Geneva 27, Switzerland (ISSN 0042-9686).

(**34**) Xylose Lisene Deoxycholate Agar—See Taylor W I, (1965) American Journal of Clinical Pathology, 44:471-475, Lippincott and Raven, 227E Washington Street, Philadelphia PA 19106, USA.

(**35**) MacConkey agar—See (1963) International Standards for Drinking Water, World Health Distribution and Sales, CH-1211, Geneva 27, Switzerland.

Day 1

2. Tests shall be carried out in duplicate using two 25 gram portions of each sample submitted for testing. Each 25 gram sample shall be placed aseptically in a sterile container containing 225 ml Buffered Peptone Water/Lysine/Glucose (BPW/L/G)(**36**) and incubated at 37°C for 18 hours.

Day 2

3. The incubated BPW/L/G shall be added to Selenite Cystine Trimethylamine-N-Oxide Dulcitol (SC/T/D)(**37**) and Lysine Decarboxylase Glucose (LD/G)(**38**) media in electrical conductance cells or wells. For cells or wells containing more than 5 ml medium 0.2 ml of the BPW/L/G shall be added and for cells or wells containing 5 ml or less medium 0.1 ml of the BPW/L/G shall be added. Cells or wells shall be connected to appropriate electrical conductance measuring equipment set to monitor and record changes in electrical conductance at 6 minute intervals over a 24 hour period. The temperature of cells and wells shall be kept at 37°C.

Day 3

4. At the end of the 24 hour period, the information recorded by the conductance measuring equipment shall be analysed and interpreted using criteria defined by the manufacturers of the equipment. Where a well or cell is provisionally identified as being positive for Salmonella, the result shall be confirmed by subculturing the contents of the well or cell on to two 90 millimetre plates of BGA or on to one 90 millimetre plate of BGA and one 90 millimetre plate of Xylose Lysine Deoxycholate Agar (XLD) using a 2.5 mm diameter loop. The plates shall be inoculated with a droplet taken from the edge of the surface of the fluid by drawing the loop over the whole of one plate in a zig zag pattern and continuing to the second plate without recharging the loop. The space between the loop streaks shall be 0.5 cm – 1.0 cm. The plates shall be incubated at 37°C overnight.

Day 4

5. The plates shall be examined and a minimum of 3 colonies from each plate showing suspicion of Salmonella growth shall be subcultured—

(a) on to a blood agar plate;

(b) on to a MacConkey agar plate; and

(c) into biochemical media suitable for the identification of Salmonella.

These media shall be incubated at 37°C overnight.

Day 5

6. The incubated composite media or equivalent shall be examined and the findings recorded, discarding cultures which are obviously not Salmonella. Slide serological tests shall be performed using Salmonella polyvalent " O" and polyvalent "H" (phase 1 and 2) agglutinating sera on selected suspect colonies collected from the blood agar or MacConkey plates. If reactions occur with one or both sera, a subculture shall be sent to a Regional Veterinary Laboratory of the Veterinary Laboratories Agency of the Department for Environment, Food and Rural Affairs for further typing.

(**36**) Buffered Peptone Water/Lysine/Glucose—See Ogden I D (1988) International Journal of Food Microbiology 7:287-297, Elsevier Science BV, PO Box 211, 1000 AE, Amsterdam, Netherlands (ISSN 0168-1695).

(**37**) Selenite Cystine Trimethylamine-N-Oxide Dulcitol—See Easter, M C and Gibson, D M, (1985) Journal of Hygiene 94:245-262, Cambridge University Press, Cambridge.

(**38**) Lysine Decarboxylase Glucose—See Ogden I D (1988) International Journal of Food Microbiology 7:287-297, Elsevier Science BV, PO Box 211, 1000 AE, Amsterdam, Netherlands (ISSN 0168-1695).

PART III

METHOD FOR THE ISOLATION OF *ENTEROBACTERIACEAE*

1. Tests shall be begun on receipt of the sample or on the first working day which allows this method to be completed. If the test is not begun on the day of receipt the sample shall be stored in a refrigerator until required at between 2°C and 8°C. If the sample has been refrigerated it shall be removed from the refrigerator and stored at room temperature for at least one hour before the test is started.

Samples

2. Tests shall be carried out using five 10 gram portions of each sample submitted for testing. Each 10 gram sample shall be placed aseptically in a sterile container containing 90 ml Buffered Peptone Water and mixed thoroughly until the sample is evenly suspended.

Inoculations

3. For each portion of the sample 1 ml of solution shall be transferred to a sterile 90 mm petri dish (in duplicate). The plates shall be labelled to identify the portion of sample they were taken from. 15 ml of Violet Red Bile Glucose Agar (VRBGA)(**39**) at a temperature of 47°C±2°C shall be added to each petri dish and immediately gently mixed by swirling the dish with five clockwise and five anticlockwise circular movements.

4. Once the agar has set, each agar plate shall be overlaid with a further 10 ml VRBGA at a temperature of 47°C±2°C. Once the overlay has set, the plates shall be inverted and incubated aerobically at 37°C±1°C for 20 hours±2 hours.

Samples with colonies of Enterobacteriaceae

5. After incubation each set of duplicate plates shall be examined for colonies characteristic of *Enterobacteriaceae* (purple colonies 1 – 2 mm in diameter). All characteristic colonies on each plate shall be counted and the arithmetic mean of the duplicate plates taken.

The sample provisionally fails if either—

(a) any arithmetic mean is above 30(**40**); or

(b) three or more arithmetic means are above 10;

in which case the following procedure shall be followed to establish whether or not the colonies are *Enterobacteriaceae*.

6. After counting the colonies, characteristic colonies shall be taken at random from the agar plates, the number being at least the square root of the colonies counted. The colonies shall be subcultured onto a blood agar plate and incubated aerobically at 37°C±1°C for 20 hours±2 hours.

Examination of subcultures

7. An oxidase test and a glucose fermentation test shall be performed on each of the five subcultured colonies. Colonies which are oxidase-negative and glucose fermentation-positive shall be considered to be *Enterobacteriaceae* .

(**39**) Violet Red Bile Glucose Agar—See Mossell D A A, Eelderink I, Koopmans M, van Rossem F (1978) Laboratory Practice 27 No. 12 1049-1050; Emap Maclaren, PO Box 109, Maclaren House, 19 Scarbrook Road, Croydon CR9 1QH.

(**40**) An arithmetic mean of 30 is equivalent to $3x10^2$ colony forming units per gram of original sample.

8. If not all of the colonies prove to be *Enterobacteriaceae*, the total count in paragraph 5 shall be reduced in proportion prior to establishing whether or not the sample should fail.

Controls

9. Control tests shall be carried out each day that a test is initiated using—

(a) *Escherichia coli* NCTC 10418 no more than seven days old at time of use; and

(b) processed animal protein or compost or digestive residue which is free of *Enterobacteriaceae*.

10. A 10 gram portion of the rendered animal protein shall be placed aseptically in a sterile container containing 90 ml BPW and mixed thoroughly until the sample is evenly suspended.

11. One colony of *Escherichia coli* shall be placed in 10 ml BPW and mixed to form an even suspension. 0.1 ml of the suspension shall be added to the suspension in the preceding paragraph.

12. This is then treated and examined in the same way as test samples. If no typical colonies are formed then that day's testing shall be invalid and shall be repeated.

SCHEDULE 3 Regulation 50

TRANSITIONAL MEASURES

PART I

TRANSITIONAL MEASURES REGARDING THE INTRA-SPECIES RECYCLING BAN FOR FISH(**41**)

In accordance with Article 1 of Commission Regulation (EC) No. 811/2003 implementing Regulation (EC) No. 1774/2002 of the European Parliament and of the Council as regards the intra-species recycling ban for fish, the burial and burning of animal by-products and certain transitional measures, the prohibition on the feeding of fish with processed animal protein derived from the bodies or parts of bodies of fish of the same species in Article 22(1)(a) of the Community Regulation shall not apply.

PART II

THE COLLECTION, TRANSPORTATION AND DISPOSAL OF FORMER FOODSTUFFS(**42**)

1.—(1) The Secretary of State shall be the competent authority for granting approvals under Commission Regulation (EC) No. 813/2003 on transitional measures under Regulation (EC) No. 1774/2002 of the European Parliament and of the Council as regards the collection, transport and disposal of former foodstuffs.

(**41**) This Part of the Schedule enforces Article 1 of Commission Regulation (EC) No. 811/2003 implementing Regulation (EC) No. 1774/2002 of the European Parliament and of the Council as regards the intra-species recycling ban for fish, the burial and burning of animal by-products and certain transitional measures, OJ No. L117, 13.5.2003, p. 14.

(**42**) This Part of the Schedule enforces Commission Regulation (EC) No. 813/2003 on transitional measures under Regulation (EC) No. 1774/2002 of the European Parliament and of the Council as regards the collection, transport and disposal of former foodstuffs, OJ No. L117, 13.5.2003, p. 22.

(2) Instructions for the purposes of Article 3(3) of that Regulation may be issued by an inspector.

Collection, transport and disposal of former foodstuffs

2. For the purposes of Article 1.1 of Commission Regulation (EC) No. 813/2003, by way of derogation from Article 6(2)(f) and Article 7 of the Community Regulation, former foodstuffs which have not been mixed with any other animal by-products (other than Category 3 catering waste) may be collected, transported and disposed of or treated in the same way as catering waste.

3. Where former foodstuffs are mixed with Category 1 or Category 2 material any person in possession or control of the material shall ensure that it is disposed of in accordance with Article 1(2) of Commission Regulation (EC) No. 813/2003; and any person who fails to do so shall be guilty of an offence.

4. Where former foodstuffs are sent for disposal in an approved landfill site, any person in possession or control of the material shall comply with Article 1(3) of Commission Regulation (EC) No. 813/2003 and any person who fails to do so shall be guilty of an offence.

5. Any person who fails to comply with any instructions given by an inspector under Article 3(3) of Commission Regulation (EC) No. 813/2003 shall be guilty of an offence.

6. In this Part "former foodstuffs" does not include waste from the production of products which are intended to be cooked before they are eaten.

PART III

USED COOKING OIL IN ANIMAL FEED(**43**)

Scope

1. Notwithstanding the prohibition on feeding farmed animals with catering waste or feed material containing or derived from catering waste, used cooking oil may be used for the production of animal feed if it has been collected, treated and blended in accordance with this Part.

2. This Part is confined to used cooking oil which—

(a) originates exclusively in restaurants, catering facilities and kitchens, including central kitchens and household kitchens; and

(b) is intended for the production of animal feed.

Approvals

3.—(1) The Secretary of State shall approve—

(a) collectors of used cooking oil if she is satisfied that the collector will comply with the requirements of this Part; and

(b) operators of premises on which used cooking oil is treated or mixed with other oils if she is satisfied that the premises and operation comply with the requirements of this Part.

(2) The approval shall only be granted if the collector or operator was collecting, treating or blending used cooking oils on 1 November 2002.

4. The approval shall specify—

(**43**) This Part of the Schedule enforces Commission Decision 2003/320/EC on transitional measures under Regulation (EC) No. 1774/2002 of the European Parliament and of the Council as regards the use in feed of used cooking oils, OJ No. L117, 13.5.2003, p. 24.

(a) the name of the operator and the address of the approved premises;

(b) in the case of treatment premises, the parts of the premises in which used cooking oil may be received and treated; and

(c) the expiry date, which shall be no later than 31 October 2004.

5.—(1) Approval shall be suspended immediately if the conditions under which it was granted are no longer fulfilled.

(2) Once suspended, the approval shall only be reinstated subject to fulfilment of the requirements of the Community Regulation in their entirety.

General obligations

6.—(1) Used cooking oil shall be collected, transported, stored, handled, treated, and used in accordance with this Part.

(2) Any person who fails to comply with sub-paragraph (1) shall be guilty of an offence.

(3) Any used cooking oil which does not comply with the provisions of this Part shall be disposed of as directed by notice by an inspector.

7. Used cooking oil shall be—

(a) collected by an approved collector;

(b) treated by an approved operator on approved treatment premises, and

(c) mixed with other oils by an approved operator on approved blending premises.

Collection and transportation of used cooking oil

8.—(1) Used cooking oil shall be collected and transported in lidded containers or leak proof vehicles and identified in such a way that the contents, even after mixing, are traceable to all the premises of origin.

(2) Collectors shall take all necessary measures to ensure that the used cooking oil collected is free from contamination by harmful substances.

(3) Reusable containers, and all reusable items of equipment or appliances that come into contact with used cooking oil, shall be cleaned, washed and disinfected after each use.

(4) Vehicles or containers which carry any material which could contaminate the used cooking oil shall be thoroughly cleansed and disinfected before they are used to carry used cooking oil.

Approved premises and the operation of blending premises

9. The operator of approved premises shall ensure that the premises comply with, and are operated in accordance with, the provisions of this Part.

10.—(1) Before mixing with other oil operators of blending premises shall ensure that each batch of used cooking oil is tested to ensure compliance with the standards in paragraph 16 of this Part. A batch shall be no greater than 30 tonnes.

(2) Collectors and operators of approved premises shall ensure that used cooking oil that does not comply with the standards in paragraph 16 of this Part is not used for animal feed.

Approved premises

11.—(1) Approved premises shall be constructed in such a way that they are easy to clean and disinfect.

(2) Unauthorised persons and animals shall not have access to the premises.

(3) The premises shall have adequate facilities for cleaning and disinfecting the containers or receptacles in which used cooking oil is received and, where appropriate, the vehicles in which it is transported.

(4) The premises shall have adequate lavatories and washing facilities for staff.

(5) The premises shall have a covered space, clearly marked, to receive used cooking oil.

(6) Where appropriate, the premises shall have a separate storage area for any used cooking oil that is not suitable for use in animal feed.

(7) Tanks shall be sealed with vents located and screened in a manner that prevents entry by contaminants or pests.

(8) Pipework shall be sealed when not in use.

Operators' own-checks

12.—(1) Operators of approved premises shall adopt all measures necessary to comply with the requirements of this Part.

(2) They shall put in place, implement and maintain a procedure developed in accordance with the principles of the system of hazard analysis and critical control points (HACCP).

(3) They shall in particular—

(a) identify and control the critical control points in the premises,

(b) establish and implement methods for monitoring and checking such critical control points and keep records of such checks for at least two years, and

(c) ensure the traceability of each batch received and despatched.

13.—(1) The operator of approved blending premises shall carry out checks and take samples for the purposes of checking compliance with the standards in paragraph 16.

(2) Where the results of a check or a test show that the used cooking oil does not comply with the provisions of this Part, the operator shall—

(a) establish the causes of failures of compliance;

(b) ensure that the oil is not despatched for use in feedingstuffs;

(c) instigate appropriate decontamination and cleaning procedures; and

(d) where used cooking oil has already been despatched for use in feedingstuffs, or incorporated into feedingstuffs, take all necessary measures to ensure that feedingstuffs containing the oil are not fed to livestock.

14.—(1) The operator shall record the results of the checks and tests.

(2) The operator shall keep a sample of each consignment of used cooking oil despatched from the premises and shall keep it for at least six months.

Hygiene requirements in approved premises

15.—(1) Containers, receptacles and, where appropriate, vehicles used for transporting used cooking oil shall be cleaned in a designated area.

(2) Preventive measures against birds, rodents, insects or other vermin shall be taken systematically.

(3) Used cooking oil intended for use in animal feed shall not be stored in the same area as used cooking oil which is not suitable for use in animal feed or products which may pose a risk to animal or human health.

(4) Cleaning procedures shall be established and documented for all parts of the premises.

(5) Hygiene control shall include regular inspections of the environment and equipment.

(6) Inspection schedules and results shall be recorded.

(7) Installations and equipment shall be kept in a good state of repair.

(8) Measuring equipment shall be calibrated at least once a year.

(9) Tanks and pipes shall be cleaned internally at least once a year or when there is build-up of water and physical contaminants.

(10) Treated used cooking oil shall be handled and stored in such a way as to preclude contamination.

Specification for used cooking oil for use in animal feed

16.—(1) Used cooking oil shall meet the following minimum standards before use in animal feed.

(2) Physical contamination:

(a) moisture and impurities: <3%

(b) impurities: <0.15 %.

(3) Presence of mineral oil: absence.

(4) Presence of oxidised fatty acids: >88% Elutable Fatty acid content.

(5) Presence of pesticide residues:

(a) until 1 August 2003 complies with Council Directive 99/29/EC on the undesirable substances and products in animal nutrition(**44**);

(b) from 1 August 2003, complies with Directive 2002/32/EC of the European Parliament and of the Council on undesirable substances in animal feed(**45**).

(6) Presence of PCBs: <100ppb for the 7 main congeners(**46**).

(7) Presence of Salmonella: absence.

(8) Presence of animal fat:

(a) Pentadecanoic acid (C15): <0.2%

(b) Cis-9-hexadecanoic acid (C16:1): <2%

(c) Heptadecanoic acid (C17): <0.4%

(d) Cis-9-heptadecanoic acid (C17:1): <0.3%

(e) Fatty acids with a chain length of 20 carbon atoms or more (C20+): < 5%

Commercial documents

17.—(1) Commercial documents may be in written or electronic form.

(2) A written commercial document or a printout of an electronic document shall accompany the consignment of used cooking oil during transportation.

(**44**) OJ L 115, 4.5.1999, p.32.
(**45**) OJ L 140, 30.5.2002, p.10.
(**46**) ICES 7 polychlorinated biphenyls.

(3) The producer, receiver and carrier shall each retain a copy of a written commercial document or, for electronic information, a printout of that information.

(4) Commercial documents shall contain the following information—

(a) the address of the premises from which the used cooking oil was taken;

(b) the date on which the used cooking oil was taken from the premises;

(c) the quality and description of the used cooking oil;

(d) the quantity of the used cooking oil;

(e) the name and the address of the carrier;

(f) the destination of the used cooking oil;

(g) a unique reference number that links the collector and the container or vehicle to the premises from which the used cooking oil was taken.

Records

18.—(1) Any person consigning, transporting or receiving used cooking oil shall keep a record containing the information specified in the commercial document.

(2) For used cooking oil which is suitable for use in animal feed, the records shall in addition provide for full traceability of the oil from the premises of origin to its incorporation into animal feed.

(3) For used cooking oil which is not suitable for use in animal feed, the person consigning the oil for disposal shall in addition keep a record showing the method and place of disposal and the date the oil was consigned for disposal.

List of premises

19.—(1) The Secretary of State shall maintain a list of the names and addresses of approved:

(a) collectors of used cooking oil;

(b) operators of treatment premises; and

(c) operators of blending premises.

(2) Each collector and operator of approved premises shall be assigned an official identification number.

(3) The Secretary of State shall make this list publicly available.

PART IV

MAMMALIAN BLOOD(**47**)

General

1. By way of derogation from Annex VII, Chapter II, paragraph 1 to the Community Regulation, mammalian blood may be processed in accordance with this Part.

2. The Secretary of State may approve the use of processing methods 2 to 5 or 7 of Annex V to the Community Regulation for the processing of mammalian blood.

(**47**) This Part of the Schedule implements Commission Decision 2003/321/EC on transitional measures under Regulation (EC) No. 1774/2002 of the European Parliament and of the Council as regards the processing standards for mammalian blood, OJ No. L117, 13.5.2003, p. 30.

3.—(1) Approval shall be suspended immediately if the conditions under which it was granted are not fulfilled.

(2) Once suspended, the approval shall only be reinstated subject to fulfilment of the requirements of the Regulation in their entirety.

(3) Any material not processed in accordance with this Part or the Community Regulation shall be disposed of as instructed by an inspector.

4. The approval shall only be granted if the operator was processing at those premises, using that equipment and using those methods on 1 November 2002.

5. All other relevant provisions of the Community Regulation must be complied with.

PART V

OLEOCHEMICAL PLANTS USING RENDERED FATS FROM CATEGORY 2 AND CATEGORY 3 MATERIALS(**48**)

General obligations

1. By way of derogation from Article 14 of the Community Regulation, the Secretary of State may approve the use of oleochemical plants to process rendered fats derived from both Category 2 and Category 3 material providing they comply with the following conditions.

2.—(1) Approval shall be suspended immediately if the conditions under which it was granted are not fulfilled.

(2) Once suspended, the approval shall only be reinstated subject to fulfilment of the requirements of the Community Regulation in their entirety.

(3) Any material not processed in accordance with this Part or the Community Regulation shall be disposed of as instructed by an inspector.

3. The approval shall only be granted to premises and facilities that operated in that way on 1 November 2002.

Specific requirements

4.—(1) Only rendered fats derived from Category 2 and Category 3 materials may be used.

(2) Rendered fats derived from Category 2 materials shall be processed in accordance with the standards in Chapter III of Annex VI to the Community Regulation.

(3) Additional processes such as distillation, filtration and processing with absorbents shall be used to further improve the safety of the tallow derivatives.

(**48**) This Part of the Schedule implements Commission Decision 2003/326/EC on transitional measures under Regulation (EC) No. 1774/2002 of the European Parliament and of the Council as regards the separation of Category 2 and Category 3 oleochemical plants, OJ No. L117, 13.5.2003, p. 42.

PART VI

LOW CAPACITY INCINERATION OR CO-INCINERATION PLANTS WHICH DO NOT INCINERATE OR CO-INCINERATE SPECIFIED RISK MATERIALS OR CARCASES CONTAINING THEM(**49**)

General obligations

1. By way of derogation from Article 12(3) of the Community Regulation, the Secretary of State may approve the use of low capacity incineration or co-incineration plants which do not meet the requirements laid down in Annex IV to the Community Regulation if they are operated in accordance with this Part.

2.—(1) Approval shall be suspended immediately if the conditions under which it was granted are not fulfilled.

(2) Once suspended, the approval shall only be reinstated subject to fulfilment of the requirements of the Community Regulation in their entirety, including Annex IV.

(3) Any material not incinerated in accordance with this Part or the Community Regulation shall be disposed of as instructed by an inspector.

3. The approval shall only be granted to incinerators that were in operation on 1 November 2002.

4. The operator shall take all necessary measures to ensure that—

(a) animal by-products are handled and stored safely and incinerated or co-incinerated without undue delay in such a way that they are reduced to dry ash;

(b) the dry ash is disposed of properly and records are kept of the quantity and description of the animal by-products incinerated and the date of incineration;

(c) the dry ash is not removed from the combustion chamber unless combustion is complete; and

(d) transport and intermediate storage of the dry ash takes place in a closed container to prevent dispersal in the environment and is disposed of safely,

and failure to do so shall be an offence.

5. In the case of a breakdown or malfunction, the operator must reduce or close down operations as soon as practicable until normal operations can be resumed, and failure to do so shall be an offence.

SCHEDULE 4

Regulation 51

AMENDMENTS

AMENDMENTS TO THE TSE (ENGLAND) REGULATIONS 2002

1. The TSE (England) Regulations 2002(**50**) are amended in accordance with this Part.

2. Regulations 33(4), 34(2), 52, 54, 56(1)(a), 56(2)(b), 56(4)(c) and (d), 63 to 68, 69(1), (3), (4) and (5) and Schedule 6 are revoked.

(**49**) This Part of the Schedule implements Commission Decision 2003/327/EC on transitional measures under Regulation (EC) No. 1774/2002 of the European Parliament and of the Council as regards the low capacity incineration or co-incineration plants which do not incinerate or co-incinerate specified risk material or carcases containing them, OJ No. L117, 13.5.2003, p. 44.

(**50**) S.I. 2002/843, as amended by S.I. 2002/1253 and S.I. 2002/2860.

3. At the end of regulation 13 there shall be added—

"(7) In this regulation mammalian meat and bone meal does not include any compost or digestion residues resulting from the treatment of animal by-products in a composting or biogas plant in accordance with the Animal By-Products Regulations 2003.".

4. After regulation 34 there shall be inserted—

"**Mixing specified risk material with other animal material**

34A. Any animal material that comes into contact with, or is mixed with, specified risk material shall be treated as specified risk material.".

5. For regulation 40 there shall be substituted the following regulation—

"**Disposal of specified risk material**

40. Once specified risk material has been removed from the carcase and treated in accordance with this Part of these Regulations, including any material treated as if it were specified risk material in accordance with regulation 33(5) or 34(4) above, or, in the case of specified solid waste, recovered from the drainage system, the person responsible for its removal or recovery shall, without unreasonable delay—

(a) consign it in accordance with the Animal By-Products Regulations 2003; or

(b) consign it to premises licensed under regulation 57.".

6. For Schedule 5 (Application of Part IV of the Regulations to scheme animals) there shall be substituted the following Schedule—

SCHEDULE 5

APPLICATION OF PART IV OF THE REGULATIONS TO SCHEME ANIMALS

PROVISION OF THE REGULATIONS	EXTENT TO WHICH THE PROVISION APPLIES TO SCHEME ANIMALS
Regulation 33(3)	Not applicable
Regulation 33(4)	Subject to the modification that from the point at which specified risk material derived from a scheme animal is removed from the slaughterhouse, it may come into contact with any other animal material from such an animal
Regulation 34	Not applicable
Regulation 39(3)(b)	Not applicable
Regulation 57	Not applicable

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in England for the administration and enforcement of Regulation (EC) No 1774/2002 of the European Parliament and of the Council of 3 October 2002 laying down health rules concerning animal by-products not intended for human consumption (OJ No. L273, 10.10.2002, p1.) ("the Community Regulation"). They revoke the Animal By-Products Order 1999, S.I.1999/646, and the Animal By-Products (Amendment) Order 2001, S.I. 2001/1704.

They also make provision for the enforcement of the following measures, which amend the Community Regulation and make provision for transitional arrangements—

(a) Commission Regulation (EC) No. 808/2003 amending Regulation (EC) No. 1774/2002 of the European Parliament and of the Council laying down health rules concerning animal by-products not intended for human consumption(**51**);

(b) Commission Regulation (EC) No. 811/2003 implementing Regulation (EC) No. 1774/2002 of the European Parliament and of the Council as regards the intra-species recycling ban for fish, the burial and burning of animal by-products and certain transitional measures(**52**);

(c) Commission Regulation (EC) No. 813/2003 on transitional measures under Regulation (EC) No. 1774/2002 of the European Parliament and of the Council as regards the collection, transport and disposal of former foodstuffs(**53**);

(d) Commission Decision 2003/320/EC on transitional measures under Regulation (EC) No. 1774/2002 of the European Parliament and of the Council as regards the use in feed of used cooking oil(**54**);

(e) Commission Decision 2003/321/EC on transitional measures under Regulation (EC) No. 1774/2002 of the European Parliament and of the Council as regards the processing standards for mammalian blood(**55**);

(f) Commission Decision 2003/326/EC on transitional measures under Regulation (EC) No. 1774/2002 of the European Parliament and of the Council as regards the separation of Category 2 and Category 3 oleochemical plants(**56**);

(g) Commission Decision 2003/327/EC on transitional measures under Regulation (EC) No. 1774/2002 of the European Parliament and of the Council as regards the low capacity incineration or co-incineration plants which do not incinerate or co-incinerate specified risk material or carcases containing them(**57**);

Provision in England for the administration and enforcement of measures in the Community Regulation in relation to export and trade between member States is intended to be made by a separate instrument.

The Regulations provide as follows.

(**51**) OJ No. L117, 13.5.2003, p. 1.
(**52**) OJ No. L117, 13.5.2003, p. 14.
(**53**) OJ No. L117, 13.5.2003, p. 22.
(**54**) OJ No. L117, 13.5.2003, p. 24.
(**55**) OJ No. L117, 13.5.2003, p. 30.
(**56**) OJ No. L117, 13.5.2003, p. 42.
(**57**) OJ No. L117, 13.5.2003, p. 44.

It is an offence to collect, transport, dispose, store, process or use, category 1, category 2 or category 3 material other than in accordance with the Community Regulation (regulations 4, 5 and 6).

It is a specific offence to collect, transport, identify or store animal by-products other than in accordance with the Community Regulation (regulation 8).

Feeding unprocessed animal by-products to farmed animals is prohibited and access by such animals to animal by-products is controlled (regulation 9).

Regulation 10 enforces the restrictions on use of animal by-products in Article 22 of the Community Regulation. This includes intra-species re-cycling, feeding catering waste to farm animals and the application of organic fertilisers on to pasture land. Regulation 11 defines pasture land. Regulation 12 permits the intra-species re-cycling of fish after 1 January 2004. Until then it is permitted by a transitional measure in Part VI of Schedule 4.

Regulations 13 to 16 provide for the approval of premises for the different types of treatment of animal by-products. Regulation 16 provides that composting on premises where the composted material originated do not need approval if the conditions of that regulation are complied with.

Regulations 17 to 21 provide for checks at plants, sampling and approved laboratories.

Regulations 22 to 24 regulate the placing on the market of various processed animal by-products.

Regulations 25 to 27 provide derogations relating to the use of animal by-products for taxidermy and feeding certain specified animals. Regulation 28 permits the burial of pet animals.

Regulation 29 permits burial and burning in remote areas, which are defined as Lundy and the Isles of Scilly. Regulations 30 and 31 provide for burial or burning in the event of a disease outbreak and for burning and burial of bees and apiculture products.

Regulations 32 to 39 provide for record keeping.

Regulations 40 to 42 provide for applications for approvals, the suspension or revocation of approvals and an appeal against a notice to amend, suspend or revoke an approval.

Under Regulations 43 to 45 an inspector can serve a notice requiring the disposal of animal by-product or catering waste and requiring cleansing and disinfection of any vehicle, container or premises. Any notice served under these Regulations shall be complied with at the expense of the person on whom the notice is served.

Regulations 46 and 47 provide powers of entry and an offence of obstructing an inspector.

Schedule 1 makes provision for biogas and composting plants, and Schedule 2 provides for testing methods.

Schedule 3 contains transitional provisions relating to intra-species re-cycling of fish, disposal of former foodstuffs, used cooking oils in animal feed, disposal of mammalian blood, oleochemical plants and low capacity incinerators.

Breach of the Regulations is an offence punishable on summary conviction to a fine up to the statutory maximum or six months imprisonment. On indictment the penalty is an unlimited fine or two years imprisonment (regulation 48).

The Regulations are enforced by the local authority except in specified premises (regulation 49).

A Regulatory Impact Assessment has been prepared and placed in the library of each House of Parliament. Copies can be obtained from BSE Division of the Department for Environment, Food and Rural Affairs, 1A Page Street, London, SW1P 4PQ.