
STATUTORY INSTRUMENTS

2003 No. 1482

The Animal By-Products Regulations 2003

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⁽¹⁾;
- (o) authorising specific requirements in accordance with Annex VI, Chapter II, Part C, paragraphs 14 and 15 to that Regulation⁽²⁾.

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.

(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—

(1) Chapter VII was added to Annex IV by Commission Regulation (EC) No. 808/2003.

(2) These paragraphs were added by Commission Regulation (EC) No. 808/2003.

- (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 perfringens*.

(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 perfringens* 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 perfringens*) or equivalent⁽³⁾.

(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⁽⁴⁾; or
- (b) NMKL 71: 1993 or equivalent⁽⁵⁾.

(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⁽⁶⁾.

(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.

(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.

⁽³⁾ Published by the British Standards Institute, British Standards House, 389 Chiswick High Road, London W4 4AL.

⁽⁴⁾ Published by the British Standards Institute; see above.

⁽⁵⁾ Published by the British Standards Institute; see above.

⁽⁶⁾ Published by the British Standards Institute; see above.