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STATUTORY INSTRUMENTS

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**2005 No. 2347**

**ANIMALS, ENGLAND**

**ANIMAL HEALTH**

**The Animal By-Products Regulations 2005**

*Made - - - - 19th August 2005*

*Laid before Parliament 24th August 2005*

*Coming into force - - 28th September 2005*

The Secretary of State, being designated<sup>(1)</sup> for the purposes of section 2(2) of the European Communities Act 1972<sup>(2)</sup> 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 2005; they apply in England and come into force on 28th September 2005.

**Interpretation**

2.—(1) In these Regulations—

“the Community Regulation” means 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<sup>(3)</sup> as amended by and as read with—

- (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<sup>(4)</sup>;
- (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-

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(1) S.I.1999/2027.

(2) 1972 c. 68.

(3) OJ No. L273, 10.10.2002, p.1.

(4) OJ No. L117, 13.5.2003, p. 1.

species recycling ban for fish, the burial and burning of animal by-products and certain transitional measures<sup>(5)</sup>;

- (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<sup>(6)</sup>;
- (d) 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<sup>(7)</sup>;
- (e) Commission Decision 2004/407/EC on transitional sanitary and certification rules under Regulation (EC) No. 1774/2002 of the European Parliament and of the Council as regards import from certain third countries of photographic gelatine<sup>(8)</sup>;
- (f) Commission Regulation (EC) No. 668/2004 amending certain Annexes to Regulation (EC) No. 1774/2002 of the European Parliament and of the Council, as regards the importation from third countries of animal by-products<sup>(9)</sup>;
- (g) Commission Regulation (EC) No. 878/2004 laying down transitional measures in accordance with Regulation (EC) No. 1774/2002 for certain animal by-products classified as Category 1 and 2 materials and intended for technical purposes<sup>(10)</sup>;
- (h) Commission Regulation (EC) No. 79/2005 implementing Regulation (EC) No. 1774/2002 of the European Parliament and of the Council as regards the use of milk, milk-based products and milk-derived products, defined as Category 3 material in that Regulation<sup>(11)</sup>.
- (i) Commission Regulation (EC) No. 92/2005 implementing Regulation (EC) No. 1774/2002 of the European Parliament and of the Council as regards means of disposal or uses of animal by-products and amending its Annex VI as regards biogas transformation and processing of rendered fats<sup>(12)</sup>;
- (j) Commission Regulation (EC) No. 93/2005 amending Regulation (EC) No. 1774/2002 of the European Parliament and of the Council as regards processing of animal by-products of fish origin and commercial documents for the transportation of animal by-products<sup>(13)</sup>;

“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) where there is, within the meaning of the Local Government Changes for England Regulations 1994<sup>(14)</sup>, 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;

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<sup>(5)</sup> OJ No. L117, 13.5.2003, p. 14.

<sup>(6)</sup> OJ No. L117, 13.5.2003, p. 22.

<sup>(7)</sup> OJ No. L117, 13.5.2003, p. 42.

<sup>(8)</sup> OJ No. L 151, 30.4.2004, p. 11 as corrected by a Corrigendum published in the Official Journal at OJ No. L208, 10.6.2004, p. 9 and as further corrected by a Corrigendum published in the Official Journal at OJ No. L 396, 31.12.2004, p. 63.

<sup>(9)</sup> OJ No. L112, 19.4.2004, p. 1.

<sup>(10)</sup> OJ No. L162, 30.4.2004, p. 62.

<sup>(11)</sup> OJ No. L16, 20.1.2005, p. 46.

<sup>(12)</sup> OJ No. L19, 21.1.2005, p. 27.

<sup>(13)</sup> OJ No. L19, 21.1.2005, p. 34.

<sup>(14)</sup> S.I. 1994/867 to which there are amendments not relevant to these Regulations.

(iv) in the City of London, the Common Council.

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

#### **Approvals, etc.**

3. Any approval, authorisation, registration, instruction, notice or recognition issued under these Regulations or the Community Regulation must 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; or
- (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 is 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 does 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 is 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 is 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 is 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 do not apply in relation to manure transported within the United Kingdom.

(4) In accordance with Annex II, Chapter X, paragraph 1 to the Community Regulation, animal by-products transported within the United Kingdom may be accompanied by any commercial document that contains the information in Annex II, Chapter III to the Community Regulation, irrespective of the format.

## **PART 3**

### **Restrictions on access to animal by-products and their use**

#### **Restrictions on feeding catering waste and other animal by-products**

**9.**—(1) It is an offence to contravene Article 22(1)(b) of the Community Regulation (which prohibits the feeding of farmed animals with catering waste or feed materials containing or derived from catering waste) and it is also an offence to feed such materials to any other ruminant animal, pig or bird.

(2) It is an offence to feed to any ruminant animal, pig or bird any other animal by-product (unless it has been processed in accordance with the Community Regulation) other than—

- (a) liquid milk or colostrum used on the farm of origin; or
- (b) in accordance with Article 23(2) of the Community Regulation as applied by regulation 26(3) of these Regulations.

#### **Intra-species recycling**

**10.**—(1) It is an offence to contravene Article 22(1)(a) of the Community Regulation (which prohibits intra-species re-cycling).

(2) Notwithstanding paragraph (1), it is not an offence to feed fish with processed animal protein derived from the bodies or parts of bodies of fish if this is done in accordance with Articles 2 to 4 of, and Annex I to, Commission Regulation (EC) No. 811/2003.

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

#### **Access to catering waste and other animal by-products**

**11.** This regulation applies in relation to—

- (a) 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) unless it has been either—
  - (i) processed using method 1 in Annex V, Chapter III to the Community Regulation, or
  - (ii) treated in accordance with the Community Regulation and these Regulations; and

(b) other animal by-products that have not been processed or treated in accordance with the Community Regulation and these Regulations.

(2) Any person who brings any catering waste or other animal by-product (other than milk, colostrum, manure or digestive tract content) on to any premises where any livestock is kept is guilty of an offence.

(3) Paragraph (2) does not apply if the occupier of the premises and the person in control of the by-products ensure that livestock do not have access to the by-products, and if the animal by-products are—

- (a) brought on in a vehicle which enters to collect other by-products and the by-products are not removed from the vehicle while on the premises;
- (b) brought on, in accordance with the approval or authorisation for the relevant plant, to premises where the following plants are situated—
  - (i) a collection centre, petfood plant, incinerator or other approved premises which was in operation as an approved premises on 1st November 2002; or
  - (ii) a Category 3 intermediate plant, a technical plant or a plant where the animal by-products are used for educational, research or diagnostic purposes; or
- (c) intended for feeding to animals on the premises in accordance with Article 23(2) of the Community Regulation as applied by regulation 26(3) of these Regulations.

(4) Any person who is in possession of the carcass or part of a carcass of any livestock that has not been slaughtered for human consumption must, pending consignment or disposal in accordance with the Community Regulation and these Regulations, ensure that it is held in such a way that animals and birds (including wild animals and birds) do not have access to it, and failure to do so is an offence.

(5) It is an offence for any person to allow livestock to have access to any catering waste or other animal by-product except—

- (a) manure;
- (b) milk or colostrum;
- (c) digestive tract content that has been applied to land provided that livestock are not allowed on to the land for at least three weeks after application; or
- (d) compost produced and applied to land in accordance with regulation 16 provided the conditions of that regulation are complied with.

(6) It is an offence for any person to allow any animal to have access to material derived from catering waste or other animal by-product 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.

(7) In this regulation “livestock” means all farmed animals, and any other ruminant animals, pigs and birds (other than wild birds).

### **Pasture land**

**12.—**(1) It is an offence to contravene Article 22(1)(c) of the Community Regulation (application of material to pasture land).

(2) For the purposes of paragraph (1), 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 (other than manure or digestive tract content) within the following periods—

- (a) two months in the case of pigs; and
- (b) three weeks in the case of other farmed animals.

- (3) Any person who—
- (a) uses pasture land for grazing within the period specified in paragraph (2); or
  - (b) feeds to pigs or other farmed animals within that period anything cropped from pasture land during that period;
- is guilty of an offence.

## PART 4

### Approved premises and the competent authority

#### The competent authority

**13.**—(1) The Secretary of State is the competent authority for the purposes of granting approvals under—

- (a) Chapter III and Chapter IV of the Community Regulation;
  - (b) the Annexes to that Regulation;
  - (c) Commission Regulation (EC) No. 92/2005; and
  - (d) these Regulations.
- (2) She is also 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 processing 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 receiving records presented 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) receiving records relating to a petfood or technical plant presented 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) supervising reprocessing in accordance with Article 25(2)(c) and (d) of that Regulation;
- (l) carrying out inspection and supervision in accordance with Article 26 of that Regulation;
- (m) giving instructions for the purposes of Annex II, Chapter II, paragraph 4 to that Regulation;
- (n) receiving commercial documents presented in accordance with under Annex II, Chapter V to that Regulation;
- (o) 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 incinerators in accordance with Annex IV, Chapter VII, paragraph 8 to that Regulation<sup>(15)</sup>; and
- (p) authorising specific requirements in accordance with Annex VI, Chapter II, Part C, paragraph 14 to that Regulation<sup>(16)</sup>.

(3) The use of the processes described in Annexes I to V to Commission Regulation (EC) No. 92/2005 is authorised in accordance with Articles 1 and 2 of that Regulation and the Secretary of State is the competent authority for the purposes of ensuring that Article 5(3) of that Regulation is complied with.

#### **Approval of premises**

**14.**—(1) No person may 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
- (i) plant that uses any of the processes described in Annexes I to V to Commission Regulation (EC) No. 92/2005,

for the storage, processing, treatment, disposal or use of animal by-products or processed products unless —

- (j) the premises;
- (k) the operator of the premises; and
- (l) the equipment (if any);

are approved for that purpose in accordance with the Community Regulation and these Regulations.

(2) The operator of approved premises must 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.

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<sup>(15)</sup> Chapter VII was added to Annex IV by Commission Regulation (EC) No. 808/2003.

<sup>(16)</sup> This paragraph was added by Commission Regulation (EC) No. 808/2003.

(3) The operator of a high capacity incineration or co-incineration plant that incinerates or co-incinerates material referred to in Article 4(1)(b) of the Community Regulation must dispose of the ash in accordance with Annex IV, Chapter VII, paragraph 4 of the Community Regulation in the same way as the operator of a low capacity incineration plant; but for the avoidance of doubt, this provision does not apply in relation to the incineration or co-incineration of a product derived from material referred to in Article 4(1)(b) of the Community Regulation that has already been processed or treated in accordance with the Community Regulation.

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

### **Biogas and composting plants**

**15.**—(1) The provisions of Part I of Schedule 1 to these Regulations 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) of and Annex VI, Chapter II, paragraph 14 to the Community Regulation—

- (a) catering waste treated in a biogas or composting plant must be treated either in accordance with Annex VI, Chapter II, paragraphs 12 or 13 of 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 must be treated in accordance with Annex VI, Chapter II, paragraphs 12 or 13 of the Community Regulation.

(3) Any operator who fails to comply with this regulation is 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 birds are kept at the premises the material is composted in a secure container which prevents the birds 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 is guilty of an offence.

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

(3) The operator must record the action taken in accordance with Article 25(2) of the Community Regulation as soon as is reasonably practicable, and failure to do so is an offence.

(4) Schedule 2 (ruminant derived fluid) has effect in relation to fluid arising from the processing of ruminant animal by-products.

### **Sampling at processing plants**

**18.**—(1) If a processing plant is processing Category 1 or Category 2 material and processed proteinaceous material is to be sent to landfill (or, in the case of Category 2 material, is applied to land or sent to a biogas or composting plant) the operator must, 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 proteinaceous material; and
  - (b) send the sample to a laboratory approved to test it for *Clostridium perfringens*.
- (2) If a processing plant is processing Category 3 material and the processed proteinaceous material is intended for use in feedingstuffs the operator must, on each day that the material is consigned from the premises—
- (a) take a representative sample of the processed proteinaceous material, and
  - (b) send it to a laboratory approved to test it for Salmonella and *Enterobacteriaceae*.
- (3) If a processing plant is processing Category 3 material and the processed proteinaceous material is not intended for use in feedingstuffs the operator must, once every week —
- (a) take a sample of the processed proteinaceous 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 is guilty of an offence.

### **Sampling at biogas and composting plants**

**19.**—(1) In the case of biogas and composting plants the operator must, at intervals specified in the approval, take a representative sample of material that has 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) 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 must—

- (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 re-sampled 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.
- (3) Any person who fails to comply with any provision of this regulation is 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 must 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) No person shall 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 paragraphs (1) or (3) or who contravenes paragraph (2) is 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 must do so in accordance with the following provisions, and failure to do so is an offence.

(4) A test for *Clostridium perfringens* must be carried out in accordance with the method in Part I of Schedule 3 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<sup>(17)</sup>.

(5) A test for Salmonella must be carried out in accordance with one of the methods in Part II of Schedule 3 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<sup>(18)</sup>; or
- (b) NMKL 71: 1993 or equivalent <sup>(19)</sup>.

(6) A test for *Enterobacteriaceae* must be carried out in accordance with the method in Part III of Schedule 3 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<sup>(20)</sup>.

(7) Where tests are carried out for the detection of any of the following, the operator of a laboratory approved under this regulation must 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 fails the test for *Enterobacteriaceae* in paragraph 5, Part III of Schedule 3;

and failure to do so is an offence.

(8) The operator of a laboratory approved under this regulation must 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 in that month, and failure to do so is an offence.

(9) 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.

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<sup>(17)</sup> Published by the British Standards Institute, British Standards House, 389 Chiswick High Road, London W4 4AL.

<sup>(18)</sup> Published by the British Standards Institute; see above.

<sup>(19)</sup> Published by the British Standards Institute; see above.

<sup>(20)</sup> Published by the British Standards Institute; see above.

## 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 is 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 the Community Regulation, which do not meet the requirements of Article 20(1) of the Community Regulation is 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 is guilty of an offence.

(3) This regulation does not apply in relation to—

- (a) technical products produced in accordance with Commission Regulation (EC) No. 878/2004; or
- (b) photographic gelatine produced in accordance with Commission Decision 2004/407/EC.

#### **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 must 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 12 (provisions relating to pasture land) and any person who fails to do so is guilty of an offence.

## PART 6

### Derogations

#### **Competent authority for Chapter V of the Community Regulation**

25. The Secretary of State is 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 authorised 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) In this regulation and in the following regulation “zoo” means premises either licensed under the Zoo Licensing Act 1981(21) or premises in relation to which the Secretary of State has granted a dispensation under section 14 of that Act.

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

### **Collection centres**

**27.**—(1) For the purposes of Article 23(2) of the Community Regulation no person may operate a collection centre 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) No person may operate any premises on which animal by-products are collected and treated for feeding to zoo or circus animals on other premises unless the premises on which the by-products are collected and treated and the operator of those premises are authorised.

(3) Operators of premises authorised under this regulation must maintain and operate the premises in accordance with—

- (a) the conditions applicable to a collection centre in Annex IX to the Community Regulation;
- (b) the conditions of the authorisation; and
- (c) all other relevant requirements of the Community Regulation and these Regulations.

(4) They must also ensure that any person employed on, or invited on to, the premises complies with those conditions and requirements.

(5) Any person who fails to comply with any provision of this regulation is 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(22).

(2) The Secretary of State is 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 is not 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 is 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) 811/2003, 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.**—(1) Any person required to keep a record under these Regulations must keep it for at least two years, and failure to do so is an offence.

(2) A record may be in written or electronic form.

#### **Records for consigning, transporting or receiving animal by-products**

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

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(22) 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 must 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 is an offence.

(2) The requirement in paragraph (1) does 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 must 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 is 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 must 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 4 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 is an offence.

### **Records for approved laboratories**

**38.** The operator of a laboratory approved under regulation 21 must, as soon as is reasonably practicable, 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 is 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 birds are kept must, as soon as is reasonably practicable, 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;
- (e) the date on which the land is first cropped or the date on which ruminant animals, pigs or birds (other than wild birds) were allowed access to the land, whichever is the sooner;

and failure to do so is an offence.

(2) The requirement in paragraph (1) to make records does 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, etc.**

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

(2) An approval, authorisation or registration shall where appropriate 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 an approval, authorisation or registration, or grants 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 a person appointed by her for the purpose.

(4) During validation of premises for the purposes of granting an approval, authorisation or registration, the Secretary of State may direct in writing how the processed or treated material must be disposed of, and failure to comply with this direction is an offence.

#### **Suspension, amendment and revocation of approvals, etc.**

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

- (a) must suspend immediately an approval, authorisation or registration if any of the conditions under which it was granted are not complied with, and
- (b) may suspend or amend an approval, authorisation or registration if she is satisfied that the provisions of the Community Regulation or these Regulations are not 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) state when it comes into effect;
  - (b) give the reasons; and
  - (c) explain the right of the operator of the premises to make written representations to a person appointed by the Secretary of State.
- (4) If the notice does not have immediate effect, and representations are made 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 decides that it is necessary for the protection of public or animal health for the amendment or suspension to have immediate effect and gives notice to the operator.
- (5) The Secretary of State may by notice revoke an approval, authorisation or registration if, following representations made under regulation 42, 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.

#### **Representations to an appointed person**

- 42.**—(1) A person may make written representations concerning a refusal, suspension or amendment under regulations 40 or 41 within 21 days of notification of the decision to a person appointed for the purpose by the Secretary of State.
- (2) The appointed person shall report in writing to the Secretary of State.
  - (3) 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 (and if necessary specify how to store it pending disposal); 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 must 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 is 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 land or premises (including any domestic premises if they are being used for any purpose in connection with the Community Regulation or these Regulations) for the purpose of ensuring that the Community Regulation and these Regulations are being complied with; 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 (including providing him with any necessary passwords) 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) is 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.** Any person is guilty of an offence if he—

- (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.

## Penalties

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

- (a) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding three 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, is guilty of the offence and 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(**23**);
- (b) premises which are licensed under the Poultry Meat, Farmed Game Bird Meat and Rabbit Meat (Hygiene and Inspection) Regulations 1995(**24**);
- (c) premises which are licensed under the Wild Game Meat (Hygiene and Inspection) Regulations 1995(**25**);
- (d) combined premises as defined in the Meat Products (Hygiene) Regulations 1994(**26**)
- (e) combined premises as defined in the Minced Meat and Meat Preparations (Hygiene) Regulations 1995(**27**).

(2) From 1st January 2006 (when the Regulations in paragraph (1) will be revoked in England by the coming into force of the Food Hygiene (England) Regulations 2005(**28**)), they shall be enforced

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

(24) S.I. 1995/540 as amended by S.I. 1995/1763, 1995/2148, 1995/2200, 1995/3205, 1997/1729, 2000/225, 2000/656, 2000/2215, 2001/3399, 2002/889 and 2005/209.

(25) S.I. 1995/2148 as amended by S.I. 1995/3205 and 2000/656.

(26) S.I. 1994/3082 as amended by S.I. 1995/539, 1995/1763, 1995/2200, 1995/3205, 1996/1499, 1999/683, 2000/225, 2000/656, 2000/790, 2000/2215, 2001/1512, 2001/1771, 2001/2601 and 2002/118.

(27) S.I. 1995/3205 as amended by S.I. 1996/3124, S. I. 2000/225, S. I. 2000/656, 2000/2215, 2001/1512, 2001/1739, 2001/1771, 2001/2601, 2001/3451 and 2002/118.

(28) S. I. 2005/2059.

by the Secretary of State in any slaughterhouses, game handling establishments, and cutting plants placing fresh meat on the market where the Food Standards Agency enforces those Regulations.

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

(4) 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: technical products**

**50.**—(1) Notwithstanding regulations 4 and 5, the placing on the market of the types of Category 1 and 2 material referred to in Article 1 of Commission Regulation (EC) No. 878/2004 for consignment to a dedicated technical plant approved in accordance with Article 18 of the Community Regulation is authorised in accordance with Article 2 of that Regulation.

(2) It is an offence to fail to comply with Article 4(1) of Commission Regulation (EC) No. 878/2004 (placing on the market) or Article 5 of that Regulation (collection and transportation).

#### **Transitional measures: photographic products from gelatine**

**51.**—(1) Notwithstanding regulation 4, in accordance with Article 1 of Commission Decision 2004/407/EC, the use of gelatine is authorised for the manufacture of photographic products if it has been—

- (a) produced from Category 1 material in accordance with that Decision; and
- (b) imported in accordance with that Decision.

(2) The manufacture of photographic products must be carried out in the photographic factory listed in Annex I to that Decision, and in accordance with an approval granted for the purpose by the Secretary of State.

(3) The Secretary of State shall immediately suspend the approval if the conditions of this regulation are not complied with.

(4) No person shall—

- (a) transport the photographic gelatine in a vehicle that at the same time transports any product intended for food or feed, including gelatine intended for other purposes than use in the photographic industry;
- (b) use the imported gelatine other than in the approved photographic factory;
- (c) use it for any purpose other than photographic production; or
- (d) send it to another member State.

(5) The operator of the approved photographic factory shall ensure that any surpluses or residues of and other waste derived from the photographic gelatine are—

- (a) transported in sealed leak-proof containers labelled “for disposal only” in vehicles under satisfactory hygiene conditions;
- (b) disposed of as waste by incineration in accordance with Directive 2000/76/EC of the European Parliament and of the Council<sup>(29)</sup> or in a landfill site in accordance with Council Directive 1999/31/EC<sup>(30)</sup>; or

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<sup>(29)</sup> (OJ No. L 332, 28.12.2000, p. 91.

<sup>(30)</sup> (OJ No. L 182, 16.7.1999, p. 1; Directive as last amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003, p. 1).

(c) exported to the country of origin in accordance with Council Regulation (EEC) No 259/93 on the supervision and control of shipments of waste within, into and out of the European Community(31).

(6) The operator of the approved photographic factory shall keep records for at least two years detailing the purchases and uses of photographic gelatine, as well as the disposal of residues and surplus material.

(7) An inspector may serve a notice on any person in possession or control of any material to which this regulation applies and which has not been transported, used or disposed of in accordance with this regulation, requiring him to dispose of the material as specified in the notice.

(8) Failure to comply with any provision of this regulation or a notice served under it is an offence.

#### **Transitional measures: milk**

**52.** The collection, transportation, processing, use and storage of milk, milk-based products and milk-derived products is authorised in accordance with Article 1 of Commission Regulation (EC) No. 79/2005, and the Secretary of State is the competent authority for the purposes of issuing registrations and authorisations in accordance with that Regulation.

#### **Transitional measures with expiry dates**

**53.**—(1) Schedule 4 (transitional measures) shall have effect.

(2) Part I of Schedule 4 (transitional measures on the collection, transportation and disposal of former foodstuffs) shall cease to have effect on 1st January 2006.

(3) Part II of Schedule 4 (oleochemical plants using rendered fats from Category 2 and 3 materials) shall cease to have effect on 1st November 2005.

#### **Repeals and revocation**

**54.**—(1) The following are repealed in so far as they have effect in England—

(a) sections 1, 4, 5, 6, 7, 8, 9, 10, 12, 19 to 26, 29, 33 and, in section 34, the definition of “horse”, “construction regulations”, “licence”, “knacker’s yard” of the Slaughterhouses Act 1974(32); and

(b) section 6 of the Dogs Act 1906(33).

(2) The Rendering (Fluid Treatment) (England) Order 2001(34) and the Animal By-Products Regulations 2003(35) are revoked.

*Ben Bradshaw*  
Parliamentary Under Secretary of State  
Department for Environment, Food and Rural  
Affairs

19th August 2005

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(31) (OJ No. L 30, 6.2.1993, p. 1; Regulation as last amended by Commission Regulation (EC) No 2557/2001 (L 349, 31.12.2001, p. 1).

(32) 1974 c. 3.

(33) 6 Edw 7 c. 32.

(34) S. I. 2001/1515.

(35) S. I. 2003/1482.

## SCHEDULE 1

Regulation 15

### Additional requirements for biogas and composting plants

#### PART I

##### 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

<i>System</i>	<i>Composting in a closed reactor</i>	<i>Composting in a closed reactor</i>	<i>Composting in housed windrows</i>
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

<i>System</i>	<i>Biogas in a closed reactor</i>	<i>Biogas in a closed reactor</i>
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 (storage need not be in an enclosed system), 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.

## SCHEDULE 2

Regulation 17(4)

### Ruminant derived fluid

#### **Treatment or discharge of fluid from processing ruminant by-products**

1.—(1) Any person who processes any ruminant animal by-product shall—

- (a) discharge or consign for discharge the fluid arising from the processing into—
  - (i) a public sewer in accordance with a trade effluent consent or agreement from the relevant sewerage undertaker under the Water Industry Act 1991(36); or
  - (ii) controlled waters (within the meaning of the Water Resources Act 1991(37)) in compliance with a discharge consent from the Environment Agency under that Act; or
- (b) treat the fluid arising from the processing on the processing premises in such a way that the treated fluid has—
  - (i) a level of suspended solids of no more than 80 mg/litre, and
  - (ii) a biochemical oxygen demand of no more than 60 mg/litre,

and failure to do so shall be an offence.

(2) If the person who processes the animal by-products consigns fluid that has not been treated in accordance with sub-paragraph (1)(b) for discharge by another person, and that person fails to discharge it in accordance with sub-paragraph (1)(a)—

- (a) both that person and the processor are guilty of an offence; but
- (b) it is a defence for the processor to show that he believed on reasonable grounds that that person would discharge the fluid in accordance with sub-paragraph 1(a).

(3) This paragraph does not apply in relation to blood that has not been mixed with any other ruminant material.

#### **Measurement of treated fluid**

2.—(1) In order to ensure that the treated fluid complies with the levels in paragraph 1(1)(b) an operator who treats fluid in accordance with that paragraph shall as a minimum carry out the following measurements.

(2) He shall continuously monitor the level of suspended solids in the treated fluid or alternatively measure it three times a day.

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(36) 1991 c. 56.

(37) 1991 c. 57.

(3) Once a week he shall measure the level of suspended solids in the treated fluid by a method that conforms with “Suspended Settleable and Total Dissolved Solids in Waters and Effluents(38)”.

(4) Once a week he shall measure the biochemical oxygen demand of the treated fluid by a method which conforms with the “5 day Biochemical Oxygen Demand (BOD5)(39)”.

(5) If any of these measurements demonstrates that the treated fluid does not comply with the levels in paragraph 1(1)(b) the operator shall ensure that he only discharges the treated fluid in accordance with paragraph 1(1)(a) until further tests show that the treatment system is achieving the required levels.

(6) It is an offence to fail to comply with any provision of this paragraph.

### **Records**

**3.—(1)** Any person who processes any ruminant animal by-products shall, as soon as is reasonably practicable, record the dates and results of the measurements taken in accordance with paragraph 2.

(2) For all fluid discharged or consigned from the processing premises he shall, as soon as is reasonably practicable, record—

- (a) whether the fluid was treated or untreated;
- (b) the date and method of the discharge or consignment;
- (c) the quantity discharged or consigned;
- (d) where it was discharged, or the premises to which it was consigned; and
- (e) the name of the haulier, if any.

(3) It is an offence to fail to comply with any provision of this paragraph.

### **Records of consignment**

**4.—(1)** Any person who consigns any fluid arising from the processing of ruminant animal by-products (whether or not he processed the by-products himself) from any premises shall, as soon as is reasonably practicable, record—

- (a) the address of the premises from which the fluid is collected;
- (b) the date on which the fluid is collected;
- (c) the quantity and description of the fluid, and whether treated or untreated;
- (d) the place at which it is to be discharged or disposed of.

(2) He shall give a copy to the person who transports the fluid.

(3) The transporter shall keep his copy of the record with the consignment until the fluid is discharged or disposed of.

(4) The consignor shall keep a copy of the record for at least two years, and the transporter shall keep it for at least two years.

(5) It is an offence to fail to comply with any provision of this paragraph.

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(38) This is set out in the series “Methods for the Examination of Waters and Associated Materials” available on the Environment Agency internet web-page (<http://www.environment-agency.gov.uk/nls>) but previously published by HMSO as ISBN 011751957X.

(39) This is set out in the series “Methods for the Examination of Waters and Associated Materials” available on the Environment Agency internet web-page (<http://www.environment-agency.gov.uk/nls>) but previously published by HMSO as ISBN 0117522120.

## SCHEDULE 3

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)(40) 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*.

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.

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(40) 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.

### 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(41); and
- (b) inoculated into either lactose gelatin medium(42) or charcoal gelatin discs(43);

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

### 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 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;

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(41) 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 0R6, Canada

(42) Lactose gelatin 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.

(43) 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.

- (b) *Escherichia coli* NCTC 10418(44) 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)(45) 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.—(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.

(2) Tests shall be carried out in duplicate using two 25 gram portions of each sample submitted for testing.

##### Day one

2. On day one, 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.

##### Day two

3. On day two, 0.1 ml from the container of incubated BPW shall be inoculated into 10 ml Rappaports Vassiliadis broth (RV broth)(46) and incubated at 41.5°C±0.5°C for 24 hours ± 3 hours.

##### Day three

4. On day three, the RV broth shall be plated out on to two 90 millimetre plates of Brilliant Green Agar (BGA)(47) or on to one 90 millimetre plate of BGA and one 90 millimetre plate of Xylose Lysine Deoxycholate Agar (XLD)(48) 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

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

(45) 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).

(46) 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.

(47) 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).

(48) Xylose Lysine 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.

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 ± 27°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 four**

6. On day four 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(49); 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 five**

8. On day five 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. If requested in writing by the Secretary of State, the operator of the laboratory shall send a subculture 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**

10. 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.

#### **Day one**

11. On day one 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)(50) and incubated at 37°C for 18 hours.

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

(50) 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).

### Day two

12. On day two the incubated BPW/L/G shall be added to Selenite Cystine Trimethylamine-N-Oxide Dulcitol (SC/T/D)(51) and Lysine Decarboxylase Glucose (LD/G)(52) 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 three

13. On day three, 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 four

14. On day four 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 five

15. On day five 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. If requested in writing by the Secretary of State, the operator of the laboratory shall send a subculture to a Regional Veterinary Laboratory of the Veterinary Laboratories Agency of the Department for Environment, Food and Rural Affairs for further typing.

## 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

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(51) 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.

(52) 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).

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)(53) 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(54); 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*.

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

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(53) 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.

(54) An arithmetic mean of 30 is equivalent to  $3 \times 10^2$  colony forming units per gram of original sample.

(b) processed animal protein or compost or digestion 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 4

Regulation 53

### Transitional Measures

## PART I

### THE COLLECTION, TRANSPORTATION AND DISPOSAL OF FORMER FOODSTUFFS(55)

1.—(1) The Secretary of State is the competent authority for granting authorisations 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.

(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(1)(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.

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(55)

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.

## PART II

### OLEOCHEMICAL PLANTS USING RENDERED FATS FROM CATEGORY 2 AND CATEGORY 3 MATERIALS<sup>(56)</sup>

#### 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 conditions in paragraph 4.

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, and failure to comply with such an instruction is an offence.

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

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#### EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations, which apply in England, revoke and re-make the Animal By-Products Regulations 2003, which made provision in England for the administration and enforcement of 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 (OJ No. L273, 10.10.2002, p1.) (“the Community Regulation”).

They enforce additional Community instruments These instruments supplement and further amend the Community Regulation and make further transitional measures.

The Regulations also remove Community transitional measures that are now spent.

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(56) 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.

In addition, the Regulations repeal those provisions of the Slaughterhouses Act 1974 relating to knackers' yards in so far as they apply in England, as knackers' yards are now regulated under these Regulations.

They repeal section 6 of the Dogs Act 1906 in so far as it applies in England, which related to leaving carcasses in such a way that dogs could gain access to them, and replace it with a provision in regulation 11 regulating access of all animals to animal by-products.

They also revoke the Rendering (Fluid Treatment) (England) Order 2001 and replace it with Schedule 2 to these Regulations.

The amending and transitional instruments are—

- (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 (57);
- (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(58);
- (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(59);
- (d) 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(60);
- (e) Commission Decision 2004/407/EC on transitional sanitary and certification rules under Regulation (EC) No 1774/2002 of the European Parliament and of the Council as regards import from certain third countries of photographic gelatine(61);
- (f) Commission Regulation (EC) No 668/2004 amending certain Annexes to Regulation (EC) No 1774/2002 of the European Parliament and of the Council, as regards the importation from third countries of animal by-products(62);
- (g) Commission Regulation (EC) No. 878/2004 laying down transitional measures in accordance with Regulation (EC) No 1774/2002 for certain animal by-products classified as Category 1 and 2 materials and intended for technical purposes(63);
- (h) Commission Regulation (EC) No. 79/2005 implementing Regulation (EC) No. 1774/2002 of the European Parliament and of the Council as regards the use of milk, milk-based products and milk-derived products, defined as Category 3 material in that Regulation(64).
- (i) Commission Regulation (EC) No. 92/2005 implementing Regulation (EC) No 1774/2002 of the European Parliament and the Council as regards means of disposal or uses of animal by-products and amending its Annex VI as regards biogas transformation and processing of rendered fats(65);

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(57) OJ No. L117, 13.5.2003, p. 1.

(58) OJ No. L117, 13.5.2003, p. 14.

(59) OJ No. L117, 13.5.2003, p. 22.

(60) OJ No. L117, 13.5.2003, p. 42.

(61) OJ No. L 151,30.4.2004, p. 11 as corrected by a Corrigendum published in the Official Journal at OJ No. L208, 10.6.2004, p. 9 and as further corrected by a Corrigendum published in the Official Journal at OJ No. L 396, 31.12.2004, p. 63.

(62) OJ No. L112, 19.4.2004, p.1.

(63) OJ No. L162, 30.4.2004, p. 62.

(64) OJ No. L16, 20.1.2005, p. 46.

(65) OJ No. L19, 21.1.2005, p. 27.

- (j) Commission Regulation (EC) No. 93/2005 amending Regulation (EC) No 1774/2002 of the European Parliament and the Council as regards processing of animal by-products of fish origin and commercial documents for the transportation of animal by-products<sup>(66)</sup>.

Provision in England for the administration and enforcement of measures in the Community Regulation in relation to import, export and trade between member States is made by separate instruments.

The Regulations provide as follows.

It is a specific offence to categorise, 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). A mixture of mammalian and non-mammalian by-products are to be treated as mammalian by-products (regulation 7).

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

Regulations 9 and 10 enforce the restrictions on the feeding of catering waste and processed animal protein in Article 22 of the Community Regulation. Additionally regulation 9 prohibits the feeding to farmed animals of other unprocessed animal by-products.

Regulation 11 restricts access to catering waste and other animal by-products.

Regulation 12 enforces the restrictions in Article 22 of the Community Regulation on the application of organic fertiliser to pasture land.

Regulations 13 to 15 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 does 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 products derived from 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 Island 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, authorisations and registrations, their suspension or revocation and for representations against a notice to amend, suspend or revoke them.

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.

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

Regulations 50 to 52 provide for transitional measures for technical products, photographic products from gelatine and milk (which do not have an expiry date).

Schedule 1 makes provision for biogas and composting plants.

Schedule 2 makes provision for the disposal of fluid from rendering ruminant animal by-products.

Schedule 3 provides for testing methods.

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<sup>(66)</sup> OJ No. L19, 21.1.2005, p. 34.

Schedule 4 contains transitional provisions relating to the disposal of former foodstuffs and to oleochemical plants (which do have an expiry date).

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

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.