

Department for Environment, Food & Rural Affairs

Consultation on the Review of the Animal By-Products Regulation (EC) No. 1774/2002

November 2008

Contents

Page 1: Introduction

Page 5: Consultation questions and Partial Impact Assessment

Page 7: Devolution

Page 7: How to respond

Page 9: What will happen next?

Page 9: The consultation Code of Practice

Introduction

1. The Animal By-products (ABP) Regulation 1774/2002/EC lays down rules for the use and disposal of animal by-products not intended for human consumption. The Regulation has a very wide scope covering all animal products including meat, fish, milk and eggs when they are not intended for human consumption and other products of animal origin including hides, feathers, wool, bones, horns, hoofs. It also covers carcasses of fallen stock on farms, pet animals, and wild animals where they are suspected of being diseased. It regulates the use of ABPs for example as feed (including pet food), fertiliser or for technical products and lays down rules for their transformation through composting and biogas and their disposal via rendering and incineration. It also prevents catering waste being fed to livestock
2. It was introduced in 2002 in response to a number of crises affecting the safety of public and animal health as regards products of animal origin - in particular linked to Transmissible Spongiform Encephalopathies, dioxin contamination, and outbreaks of Classical Swine Fever and Foot and Mouth Disease - and consolidated, simplified and replaced 19 previous legal acts. It introduced stricter rules concerning the approval of certain premises, the channelling and traceability of ABPs and introduced controls based on risk categories for different types of ABP in order to guarantee the safety of final products intended for feed or technical uses.
3. In 2005 the Commission submitted a report to the European Parliament and Council reflecting on the experience of implementing the Regulation (EM 13808/05 of 21 November 2005). The report stated that although the legislation was working well and generally met its overall objectives, there were areas where changes need to be considered in order to update the legislation and to provide legal certainty, simplify it and thus reduce administrative burden.
4. Following extensive consultation, the Commission has now produced a proposal to recast the Regulation with the intention of meeting better regulation principles, to improve and make the measures more effective and efficient, and reduce the unnecessary burden for operators whilst ensuring protection of public and animal health and food safety are not undermined. Although it does not envisage any changes to the basic principles and structure of the Regulation, the proposal attempts to address a number of issues where the Commission has identified problems with the existing regulation, namely:
 - (i) the lack of clarity in the scope of the Regulation. Specifically it is not clear when products are no longer considered as ABPs, and so the requirements of the Regulation cease to apply, nor the extent to which ABP from wild game is covered;
 - (ii) the categorisation of ABPs is not always proportionate to the risk they pose;

- (iii) some of the premises that fall into the scope of this Regulation have to undergo a double approval (under the ABP legislation and under other sector legislation); and
 - (iv) the fact that current regulation does not consider some important issues as regards derogations (e.g. impact on ABPs for research, natural disasters etc).
5. The Commission has undertaken extensive consultations on their proposals to recast the Regulation both internally and with Member states, third countries and stakeholders since 2005. These comprised an Inter-Services Commission working group (with other Commission Directorates), consultation with the European Food Safety Authority (EFSA) for scientific advice on a number of areas, a number of working groups with Member States' experts in 2006, bilateral discussions with major trading partners, and meetings with the major European Associations with an interest related to the food chain and animal and public health (ABP producers, processors, traders, users, and consumers). Finally, the Commission held a general on-line consultation with all interested parties in Spring 2007.
 6. Defra has consulted with stakeholders in writing twice in 2006, as part of the response to the Commission's on-line questionnaire issued in 2007, and by holding ad hoc meetings with key stakeholders at various intervals from 2005 to date. The proposal that is the subject of this consultation was issued on 10 June 2008.
 7. We would now welcome your views on this final proposal, in particular the questions set out in this document, and on the partial impact assessment.
 8. The Commission's proposal will be of interest to a many diverse sectors. This includes (but is not limited to) the livestock & farming community, the ABP collection & disposal industry (renderers, incinerator operators, etc), the catering & food manufacturing / retailing industry, the pharmaceutical industry, the cosmetic industry, pet food manufacturers, zoos, seafish and shellfish industries, those producing and using biodiesel, pet horse owners, and the wild game sector. Enforcement authorities, Government Departments and non-Governmental organisations will also have an interest.
 9. Views and comments are invited by **6 February 2009** on the Commission's proposal, the questions posed in this consultation document, and the associated Partial Impact Assessment.
 10. References in this consultation paper to "the ABPR" means the current Animal By-Products Regulation (EC) No. 1774/2002, which lays down health rules as regards animal by-products not intended for human consumption.
 11. For convenience, the text of the 2002 Regulation can be found at:
http://defra/animalh/by-prods/pdf/en_2002R1774_do_001.pdf

12. The Commission's proposal can be found at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2008:0345:FIN:EN:PDF>

Consultation questions and partial impact assessment

1. All interested parties are invited to submit their views on any of the matters addressed in this paper, particularly in relation to the questions below. The Government's initial assessment of the impact can be found in the Partial Impact Assessment, and in relation to the questions below you may find it useful to cross refer your comments to the schedule of economic impacts following paragraph 28 of the IA document. When responding to the consultation please comment on the likely costs and benefits, giving supporting evidence wherever possible. Please also suggest any alternative methods for reaching the objective and highlight any possible unintended consequences of the proposal, and any practical enforcement or implementation issues.

2. Scope

Q1: The Commission is seeking to clarify the point at which ABPs become **finished products** (Article 46.2(a)). Such ABPs if treated or tested in a way which ensured remaining risks were minimal would then not be subject to ABPR rules. This would potentially affect several sectors including pharmaceuticals, oleochemicals, pet food manufacturers and tanneries. Do you wish to comment on the likely impact of this proposal?

Q2: The Commission has proposed that where **wild game** is processed in approved game handling establishments, the disposal of ABPs should be controlled under the regulation (Article 2.2(a) and (b)) . Do you have any views on this proposal?

Q3: Do you wish to comment on the Commission's proposal that **sea fish** showing signs of disease must be brought ashore for disposal? (Article 2.2(g)). We welcome information from those likely to be affected as to costs (e.g. alterations needed to shipboard design to accommodate such provisions).

Q4: Do you wish to comment on the proposed introduction of controls on the use of catering waste for the manufacture of derived products and in particular **used cooking oil** (UCO) for manufacturing **biodiesel** (Article 2.2(f)(iii)), or of its potential impact?

Q5: The Commission proposes to relax the controls on how **shellfish shells** can be used, once the soft tissue has been removed (Articles 2.2(e) and 21(f)) Do you have any views on the impact of this proposal?

Q6: Do you wish to comment on the proposal that establishments which only handle **small quantities** of ABP would be able to dispose of these outside of the control of the ABPR? (Article 28.1(d) and 28.4(c)). Do you have any suggestions for how this might be applied?

3. Categorisation of ABPs

Q7: Do you wish to comment on the proposal to **reclassify certain ABPs** from category 2 to 3 (Article 13), where the risk is low, thereby increasing the scope for their usage (e.g. blood from young ruminants, and ruminants which have passed a TSE test, day-old chicks, invertebrates and casein, which can then be used for various purposes such as pet food and fish food and cosmetics)?

4. Approval of plants

Q8: Do you have any views on the proposals to remove the need for approval under the ABPR for plants that are currently approved under other food/feed / technical sector legislation- and replace this requirement with a **registration** process (Articles 6 to 9)?

5. Derogations

Q9: Do you have any views on the extension of the derogation on burial and burning of **fallen stock** in areas where access is impractical, or there are health and safety risks of collection? (Article 28.1(c))

Q10: Views are invited on the relaxation of the ABPR to allow imports of certain high risk material for **research** purposes. The ABPR currently prohibits the import of such material (Article 26.1 and 28.2(d)). Do you wish to comment on this proposal?

Q11: Do you have any comments on the proposal that **zoos** would be permitted to feed certain category 1 material to zoo animals? (Article 27.2 and 3).

Q12: Do you have any comments on the proposed increased scope for use of Category 2 (and possibly Category 1 material) for **pet food**? (Article 22(e)(ii) and 35.2(c))

Q13: The current regulation allows certain **former foodstuffs** to be disposed of to landfill under national rules. It is possible that these provisions will not be continued under the proposal (Article 13(e)). Your views are sought on this and the impact on business.

6. Burial of fallen stock, including horses

Q14: The Commission are proposing to **define horses** as farm animals (article 3.3(b)) - their carcasses will then have to be disposed of in line with ABPR. This measure will prevent the burial of pet horses. Do you wish to comment on this proposal?

7. Interaction of the ABP regulation and Waste Incineration Directive with regard to the burning of tallow

Q15: Do you agree with the reference to the Waste Incineration Directive (WID) having been removed from the ABPR, and provision made in certain circumstances for ABPs (including **tallow**) to be used as a fuel for combustion? (Articles 19(f), 20(h), 21(g)).

Q16: Could the **assessment of costs and benefits** in the Partial Impact Assessment be improved. If so, how?

Devolution

8. This consultation applies in England only. Parallel consultations are being undertaken in Wales, Scotland and Northern Ireland.
9. In this paper “the Government” should be taken to read the UK Government.

How to respond

10. The consultation period began on 13 November 2008 and will run until **6 February 2009**. Please ensure that your response reaches us by that date.
11. Additional copies of this document may be made without seeking permission. Electronic versions can be found on the Department’s website at: <http://www.defra.gov.uk/corporate/consult/animalbyproducts/index.htm>
12. If you would like further paper copies of this consultation document please contact Gayle Foston – details below. Please send your consultation responses to:

Gayle Foston
Defra
Animal By-Products Team
Area 7E, 9 Millbank,
17 Smith Square
London SW1P 3JR
Tel 0207 238 6760
Abp.team@defra.gsi.gov.uk
13. When responding please state whether you are responding as an individual or are representing the views of an organisation. If responding on behalf of a larger organisation please make it clear who the organisation represents and, if applicable, how the views of members were collected.

Who will be affected?

14. A list of those organisations and individuals to whom this consultation document has been sent is available on our website here: <http://www.defra.gov.uk/corporate/consult/animalbyproducts/index.htm>

15. Please inform us at abp.team@defra.gsi.gov.uk if you know of others who may wish to be involved in this consultation process and should receive a copy of this document.

Data Protection Act 1998

16. The Secretary of State for Environment, Food and Rural Affairs is the data controller, as defined in Section 1 of the Data Protection Act 1998 (DPA), in respect of any “personal data” that you provide in response to this consultation exercise. “Personal data” is information about an individual such as their name, contact details and opinions.
17. When this consultation ends, we intend to put a copy of the responses in the Defra library at Ergon House, London. This is so that the public can see them. Also, members of the public may ask for a copy of responses under freedom of information legislation.
18. If you do not want your response - including your name, contact details and any other personal information – to be publicly available, please say so clearly in writing when you send your response to the consultation. Please note, if your computer automatically includes a confidentiality disclaimer, that won't count as a confidentiality request.
19. Please explain why you need to keep details confidential. We will take your reasons into account if someone asks for this information under freedom of information legislation. But, because of the law, we cannot promise that we will always be able to keep those details confidential.
20. We will summarise all responses and place this summary on our website at <http://www.defra.gov.uk/corporate/consult/default.asp> . This summary will include a list of names of organisations that responded but not people's personal names, addresses or other contact details.
21. The Information Resource Centre will supply copies of consultation responses to personal callers or in response to telephone or e-mail requests (tel: 020 7238 6575, e-mail: defra.library@defra.gsi.gov.uk). Wherever possible, personal callers should give the library at least 24 hours notice of their requirements. An administrative charge will be made to cover photocopying and postage costs.
22. If you wish to make a complaint, or query the consultation process (as opposed to comments about the issues which are the subject of the consultation), please write to Sue Eades, Head of Division, Controlling & Dealing with Endemic Disease, at:

Sue Eades
Defra

Area 7E, 9 Millbank
17 Smith Square
London SW1P 3JR
Sue.eades@defra.gsi.gov.uk

If your concern remains unresolved following this, please write to:

Marjorie Addo
Defra
Room Area 7C
Nobel House, 17 Smith Square,
London SW1P 3JR

Consultation questions

23. Consultees may wish to consider the following questions and provide any additional information considered relevant. Views are invited on all aspects of the proposals, including the partial impact assessment. We would be particularly interested in your views on any impact these proposals would have on consumers, industry and the environment. In particular it would be most useful if you could provide information **quantifying the costs and benefits**. If you still have questions after you have read this section please contact:

Neil Leach
Defra, Head of Animal By-Products Team
Area 7E, 9 Millbank
17 Smith Square
London SW1P 3JR
Tel 0207 238 6509
Neil.K.Leach@defra.gsi.gov.uk

What will happen next?

24. Consultees have 12 weeks to send in their comments. All responses to the consultation will be considered carefully. A summary of responses, including the next steps will be published as soon as possible after the closure of the consultation.
25. Paper copies as well as a large print version will be available on request. The summary of responses will be published on <http://www.defra.gov.uk/corporate/consult/animalbyproducts/index.htm>.

The Consultation Code of Practice

26. A copy of the Government Code on Consultations has been published by the Cabinet Office. A copy can be obtained from:
<http://www.cabinetoffice.gov.uk/regulation/consultation/code/index.asp>.