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

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## **1. Background**

This proposal was issued on 10 June 2008; some three years after the Commission first reviewed the operation of the Animal by-products regulation and following extensive consultation with Member States. The proposal is subject to agreement by the European Council and Parliament.

In bringing forward the proposal the Commission has stated that its intentions are:

- to bring the legislation into line with better regulation practice;
- to clarify the scope of the Regulation in certain areas;
- to review both the classification of risk of certain ABP's and the level of controls necessary for their use and disposal;
- to cut out some duplication of requirements for approval of premises which are covered by other sectoral legislation.

The Commission is also proposing some limited expansion to certain derogations on the use and disposal of ABP's already provided for under the current legislation.

## **2. Summary of Responses**

The consultation package was sent to around 600 representative bodies and 40 individuals, and was also made available on the Defra website. Responses were received from the following:

- Advisory Committee on Dangerous Pathogens' TSE Working Group (ACDP TSE WG)
- Association of Convenience Stores (ACS)
- Association of Government Veterinarians (AGV)
- Association of Independent Meat Suppliers (AIMS)
- Association for Organics Recycling (AOR)
- The British Association for Shooting and Conservation (BASC)
- British Egg Industry Council (BEIC)
- British & Irish Association of zoos & Aquariums (BIAZA)
- British Meat Processors Association (BMPA)
- British Poultry Council (BPC)
- British Retail Consortium (BRC)
- British Wool Marketing Board (BWMB)
- Cambridgeshire County Council (CCC)
- Chartered Institution of Wastes Management (CIWM)
- Country Land and Business Association Limited (CLA)
- Consortium of local authorities for the support of practical science and technology (CLEAPSS)
- Countryside Alliance (CA)
- Croda Chemicals International Ltd
- The Deer Initiative (DI)
- Donarbon
- Environment Agency (EA)
- European Feed Manufacturers Trade Association (FEFAC)
- European Fat Processors & Renderers Association (EFPRA)

- Envar Ltd
- Environmental Services Association (ESA)
- European Dairy Association (EDA)
- Federation of Associations for Hunting and Conservation of the European Union) (FACE UK)
- Food and Drink Federation (FDF)
- Forestry Commission (FC)
- Highways Agency (HA)
- International Serum Industry Association (ISIA)
- Local Authorities Co-ordinators of Regulatory Services (LACORS)
- Local Authority Recycling Advisory Committee (LARAC)
- Meat Hygiene Service (MHS)
- National Gamekeepers' Organisation & The Game Farmers Association (NGO & GFA)
- National Federation of Mat & Food Traders (NFMFT)
- National Farmers Union (NFU)
- National Sheep Association (NSA)
- Oaktech Environmental
- Ornamental Aquatic Trade Association Ltd (OATA)
- One Stop Stores Ltd (OSSL)
- Pet Food Manufacturers Association (PFMA)
- Real Sheepskin Association (RSA)
- Royal Association of British Dairy Farmers (RABDF)
- Royal Society for the Protection of Birds (RSPB)
- RWE npower Ltd
- SEAFISH
- Shropshire Waste Partnership (ShWP)
- Sigma-Aldrich Co Ltd
- Swiss Precision Diagnostics Development Company (SPD Spark)
- Suffolk Waste Partnership (SuWP)
- Trading Standards Institute (TSI)
- UK Environmental Law Association (UKELA)
- UK Leather Federation (UKLF)
- UK Oleochemical and Soap Industries (UK OSI)
- UK Renderers Association (UKRA)
- University of Glasgow
- Project Integra (Hampshire County Council, Portsmouth City Council & Southampton City Council Waste Disposal)
- 1 Private Individual

TOTAL: [59]

Responses to specific questions in consultation document:

**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?**

**Summary of Comments:**

26 comments received. The proposal was generally welcomed by all. Many comments that there must be clear enough rules in the new regulation that all involved in the industry understand the meaning of 'finished product'. UKRA thought agreement on & criteria for "finished products" should be made at SCoFCAH level. EA asked that any assessment and decisions be consistent with the revised WFD- with UKELA suggesting that the conditions set out in Article 6 of the WFD would form a sensible basis on which to base the conditions for ABPs becoming finished products.

AIMS welcomed the move, as potentially adding value to UK produced products such as fat & hides. Also wondered if the exemption of hides, skins and pelts from ABPR in totality, *ab initio*, would be possible. AVG thought biodiesel production was good example of strict controls on a material that was not likely to find its way back into feedstuffs etc.

FEFAC thought the end point should be the moment that processed ABP are labelled as feed material, i.e. in most cases at the Category 3 plant gate. Suggest ABP derived products should be excluded from the scope of the ABP legislation at the moment they fall under a legal framework providing equivalent guarantees as regards the safe use and product traceability- and therefore recommend withdrawing article 24(2) (b) (specific provisions on traceability and prevention of cross-contamination to be developed by comitology), and moving the consideration of these provisions into the scope of the Feed Hygiene and TSE Regulations.

Number of comments on potential benefits to composting industry- with ENVAR, CCC & CIWM commenting that this could be a potential benefit if the spreading to land of compost from AD and composting from mixed feedstock were determined by risk assessments to pose minimal risk and so not be subject to ABPR. However, one private individual thought that ABPs should only be classified as "finished products" no longer subject to ABP regulation if, after suitable treatment / testing they were to be marketed, and so become subject to sale of goods liabilities regarding their safety and fitness for purpose- but that this declassification provision should NOT be allowed for ABPs being disposed of by composting and application to land where continued control under ABP regulation was essential.

The PFMA welcomed the move and thought that processed pet food in its retail packaging would fulfil the criteria listed in the Defra Impact assessment with regard to end of the ABP life cycle. Suggest a definition of "finished product" to be included in the regulation might be: "finished product" means any product treated in accordance with this Regulation which is packed in consumer packaging. Also suggested two amendments: Art 3 no 8 ('placing on the market') be amended to include finished products; & Art 41 amended to say: finished products may be placed on the market without restrictions.

Croda supported the overall proposal and expected significant changes in relation to materials which pose little or no risk such as protein derived chemicals. Proposes that the proteins used as starting materials are classified as derived products and that the chemicals manufactured from these proteins are out of scope of the Regulation. Suggest that ABPR should extend up to and including the controlled process of hydrolysis, hydrogenation or saponification, but that the material having passed through these processes should be considered as finished products e.g. fatty acids, glycerine and soaps ( with manufacturers still needing to apply normal, commercial segregation of products so that those derived from Category 1/2 tallow would be used in technical applications only i.e. excluding food, animal feed, cosmetics and pharmaceuticals.)

Sigma-Aldrich Co Ltd responded that the main thrust of changes to the regulation should concentrate on the end-use rather than the individual products. Suggest the control of ABPs for education, research, analytical, pharmaceutical, medical device or IVD uses would be best served by removing them from the main text of the primary regulation that will replace 1774/2002, and setting out the conditions under which they can be imported either in a secondary regulation to replace 2007/2006, or allocating a specific section within the primary regulation that covers these uses. The new primary regulation should specifically define the above uses so that there is clarification and any current ambiguities are removed. It should be made clear that ABPs covered by CITES regulations, or similar overriding considerations, would not be included. ISIA said traceability and safe sourcing of serum and blood derived products, together with appropriate testing to Pharm EU requirements should be sufficient to enable such products to have reached 'End Point' and be freely available for sale within the Community.

**Government Response:**

The Government supports this part of the proposal which provides for greater certainty about the end point in the processing or manufacture of ABPs when there is no longer a risk to animal or public health and the regulation should therefore cease to apply. This should have a deregulatory impact in a number of sectors. The Government will be consulting stakeholders further on the application of specific end point criteria to different ABPs sectors when establishing implementing rules for the regulation in due course.

**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?**

**Summary of comments:**

16 comments received. Proposal was welcomed by 15, with one against. Some concerns over cost of disposal to industry. General agreement that wild game processed in Approved Game Handling Establishments should be controlled under the Regulation-but this should not include 'registered' establishments. CLA, DI & EA make same point- believe ABPR is the right place to legislate for wild game, but low risk activities that are part of 'good hunting practice' should not be regulated. RSPB recommends inclusion of a definition of 'good hunting practice' to clarify which

activities are considered exempt from the Regulation. Or alternatively, using the phrase 'established hunting practice' instead of 'good hunting practice'.

Some concern that the proposal in draft Recital 13 and the definitions in Article 2 which exclude entire bodies or parts of wild animals that are not collected after killing, in accordance with good hunting practices, from the scope of the Regulation is not helpful, and that the effect of excluding them from the Regulation means they will be subject to WFD (as is currently the case).

Comment from the Countryside Alliance that it would add clarity if the wording made it clear that there was no mandatory obligation on landowners to collect such carcasses, including those resulting from accidents and road kill.

LACORS & TSI view is that Animal By-Products from food businesses registered under Food Hygiene Regulations where wild game is processed should be controlled by this legislation. Suggestion by AFOR that this could potentially increase types of material that could be composted or treated in a biogas plant.

#### **Government Response:**

The Government agrees with the proposal that Animal by-products arising at game handling establishments approved under EU hygiene legislation should be brought within the scope of the regulation and their use and disposal should be subject to risk proportionate controls. By bringing such ABPs into scope there is a potential to bring benefits for their increased use and added value for example for composting and biogas. The Government also agrees with the proposal that for ABPs arising from wild game in smaller quantities outside of AGHEs there is a minimal risk to animal and public health from their use or disposal and they should not be regulated provided good hunting practice is followed. The Government is committed to working with the game industry and the Environment Agency on a common understanding of what constitutes good hunting practice, so that sustainable use and disposal of ABPs and protection of the environment can be ensured.

**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).**

#### **Summary of comments:**

8 comments received. Proposal was generally thought to be costly for industry, and likely to be difficult to enforce. However four responders thought it should be supported if it could be proved to be effective in minimising the spread of disease & improving the health of fish stocks.

CIWM said that the impact on the resource and waste management sector could be substantial; UK are currently under capacity for treating waste that arises on land, regardless of that which could be brought ashore under this proposal. In addition, on an environmental impact basis this could be disastrous. Part of the food chain in the oceans of the world would rely on the dead and discarded parts of sea fish, naturally

and from the fishing industry. By removing this food source there could be extensive damage to an already fragile ecosystem.

SEAFISH commented that surveys have shown that parasite infestation in fishing grounds is fairly common but controls are in place through food safety legislation. Therefore to comply with this regulation would require expensive adaptations to the majority of fishing vessels or the closure of many fishing grounds.

**Government response:**

The Government opposes this part of the proposal. There is no evidence that prevention of disposal at sea will control any potential disease risk and the costs of controls to prevent such disposal would be prohibitive compared to the risk presented. It now seems likely that this part of the proposal will not come into effect unless scientific evidence is forthcoming which can be independently evaluated to justify such measures.

**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?**

**Summary of comments:**

18 responses received, with views split. General opinion in that 'the controls should be proportionate; there is a danger that a valuable environmental initiative could be stifled for no real gain in human or animal health' (CLA). The University of Glasgow said that 'controls placed on these activities, and the burden of compliance, should be as few as is possible and completely in line with risk. It is important that we make all possible use of waste.' This view was supported by many responders.

However, there was some support for controls to ensure that processors of UCO be registered and comply with the Duty of Care. AGV thought there could be merit in bringing the biodiesel production industry within the framework of a new ABPR regulation, as it would remove a distortion between this and those producing biodiesel from tallow and give a measure of control on the disposal of UCO. RSPB also agree that the use of catering waste such as UCO for the manufacture of derived products should come under the control of the Regulation- this could help increase understanding of the impact of UCO and other wastes on biofuel production and the subsequent impact of biofuel use.

EA also supported the combustion of biodiesel being subject to ABPR. However, they point out that if the biodiesel is incinerated it will be subject to WID, WFD and ABPR. CCC & CIWM made the point that UCO processed and then determined as a finished product and handled as suggested (in Q1 above) would pose minimal risk and should then be outside ABPR.

Croda did not see any need for UCO to be included in the regulations, other than if it was blended with animal by-products. However, thought other catering waste (e.g. butchers waste) should have the same status as offal collected from a slaughterhouse. LACORS & TSI agreed that catering waste emanating from food businesses

should be disposed of as Category 3 Animal By-Product, and that provided all risks are taken into account they would support the use of catering waste for the manufacture of derived products.

NFU want to see the manufacture of biodiesel from UCO encouraged, as this offers the opportunity to add value to a used product and will be of immense environmental benefit since the biodiesel (or heating oil) produced as a result is carbon-neutral, and therefore of very similar quality to biodiesel produced from virgin crop sources. RWE had very similar views. NFU feel that stringent controls are already in place in the UK to regulate the manufacture of biodiesel from UCO & therefore there is no need for further controls in this area. Suggest would be preferable to identify lower risk sources of UCO that can be removed from Cat 3 status, and be better controlled through existing waste regulation. The NFU has also been involved in the development of the Defra-funded joint Environment Agency/WRAP "Quality protocol for the production and use of biodiesel from waste cooking oil and rendered animal fat". Seek reassurance from Defra that they will support this process and that any amendments to the ABPR will not have a negative impact on the delivery of this voluntary industry protocol.

#### **Government Response:**

The Government does not believe it is necessary to regulate the use of catering waste, and in particular used cooking oil under the animal by-products regulation for the manufacture of derived products including biodiesel, as in the Government's view there is already an adequate provision in the proposal for the control of catering waste including UCO to ensure that it does not enter the animal feed chain and cannot be applied to land without processing. This view has been supported by other Member States and it seems likely this part of the proposal will be amended to reflect this view.

**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?**

#### **Summary of comments:**

9 responses received. Overall support of 7, although some concern that '...soft tissue is very difficult to remove completely and that assurances should still be required before shells can be used in any sort of land-spreading context' (CIWM). AOR also had concerns that that '...even if soft tissue is mostly removed, there would be a risk that a certain proportion of soft tissue might still remain in the discarded shells. In addition, damaged or un-opened mussels are often discarded along with the empty shells' -and could not support the proposal.

NFU agreed with the proposal. Commented that 'within the Seafood Industry, the shellfish sector was experiencing significant problems disposing of used shell since controls governing the traditional route of disposal at sea were tightened. Landfilling of the material brings considerable cost and, due to environmental impacts, should be discouraged. This shell material has considerable potential as a soil conditioner & its application to agricultural soils can help improve organic matter, soil quality and protect against soil erosion. Also, shell can be used as an aggregate material in

construction – for example in the filling in of tracks and roads on farms. It has excellent drainage properties and therefore the re-use of the material in construction applications needs to be encouraged.’

SEAFISH also supported this view, but commented that the wording used in article 2.2(e) (that the shell ‘with the soft tissue of flesh removed’ will be exempt from the Regulation) will need EU guidance as to its intention, and standards for when flesh is deemed to be removed. Suggest these could be linked to the standards for finished products in article 46.2(a). Article 21(f) allows shell that does not meet the criteria of article 2.2(e) to have alternative uses outside of the regulation subject to approval by the member state based on risk. This is also welcomed as it may allow the approval of low risk uses for shell that has some flesh remaining, but which has been processed to remove risk to health and the environment. EA also said that this proposal was welcome, and would allow the beneficial use of shells as soil improvers and in aggregates subject to low risk environmental controls.

**Government response:**

The Government supports the proposal to allow member States greater flexibility in the use of shells from which soft tissue has been removed as this has the potential to increase their uses and add value. The Government will work closely with industry stakeholders to develop conditions under which such uses can take place safely in the UK.

**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?**

**Summary of comments:**

35 responses were received. 16 in favour, 12 not in favour, and 7 felt there was not enough information as yet to enable them to make a decision.

BASC & BIAZA, BRC, NGO & GFA, University of Glasgow generally agreed with the proposal, providing adequate controls were put in place.

ACS supported the proposal as it could lead to reduction in administrative & cost burdens on local shop retailers. Suggest exemption be calculated on both size of premises and volume of sales as the complications in defining the amount of product disposed of is likely to place significant burdens on enforcement authorities. Recommend the cut-off point of stores under 280 sq m, as defined by the Sunday Trading Act and as proposed for compliance with the Batteries Directive. In case of small premises that handle significant amounts of waste (for example a butchers or deli) a maximum volume of waste element could be incorporated. AIMS support the exemption. Suggest that premises producing less than an average of 0.5 tonne of ABP weekly should be exempt and retail premises employing less than 5 people on a particular site.

NFM fully support the proposal. Suggest that trying to establish an artificial cut off point to define a small quantity would be unscientific and arbitrary and would unfairly

impact on those above the limit. Suggest all category 3 waste (including former foodstuffs emanating from retail or wholesale operations) should fall outside the scope of the ABPR as the waste in question is the exact same material emanating from catering and domestic waste. However, if this is considered too radical, “small quantities” should apply to all non-approved premises under the EC Regulation 853/2004 and also for fairness and equity to low throughput premises. OSS Ltd agreed. Deal with in low risk Category 3 pre-packed former foodstuffs, mainly bacon, sausages and milk. Suggest the description of ‘small quantities’ should include those in the order of 10kg per week per outlet.

CLA also support the proposal. Suggest it includes e.g. small poultry units and small fresh water fisheries, smaller non-commercial sheep or goat flocks- and that an operation be outside the control of ABPR if it disposes of less than (for example) 500kg of ABP per year. HA thought we should align the ABPR with the ongoing waste exemptions- a certain (very low) tonnage of animal by-products could be handled and stored under at a defined site outside of the ABPR. LARAC felt that approved low risk treatments handling small quantities (E.g. a bioreactor such as a green cone for small quantities of food waste sited at a domestic property or a schedule 2 type property) should be exempted from ABPR as well as Waste Management Licensing. NSA agreed in principle. Suggested cottage industries producing sheepskins might be a possible area of exemption. CLEAPPS wanted to restore to schools the option to dispose of animal & animal by-products (such as hearts or eyes, which have been studied in school as part of a science activity) by wrapping them carefully in two plastic refuse bags and disposing of them in the normal waste.

BMPA thought there were potential problems of implementation, however, that this is an important flexibility that should not be ignored because it is difficult to set parameters at this stage. Suggest definitions of ‘small’ could be construed on the basis of minimum volumes required by the relevant disposal or collection method, the time needed to accrue those volumes, and the rising risks associated with storage over time.

NFU, Oaktech, Project Integra, SHWP & SUWP, SEAFISH & AFOR wanted more information before they could comment.

AVG, CCC, CRODA, CIWM, EFPRA, ENVAR, MHS, PFMA, a private individual, TSI, & UKRA did not support the proposal. Concerns that the disposal of small quantities of ABP outside of the regulation could create more problems than it solves- potential for confusion, lack of a uniform standard and the possible ability for illegal disposal in particular with regard to SRM. A small amount of ABP might not be less of a risk than a larger amount. LACORS also did not support the proposal, and said that it would be likely to have very real resource implications for enforcers in terms of time and money. It would be preferable to retain the current rules and ensure a clear message goes out that as a general rule no animal by-products may be disposed of outside the control of the regulations.

**Government response:**

In principle, the Government consider that such a derogation would be consistent with its de-regulatory aims and its wish to impose the minimum burden on small

businesses. However, it has concerns about how this could be applied in a fair and reasonable manner, that it should not distort competition, that it is straightforward for enforcement authorities to police and that it does not jeopardise animal and public health. The Government therefore proposes to consult further with stakeholders and enforcement authorities when negotiating rules to implement such a derogation to ensure that they meet these criteria.

**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)?**

**Summary of comments:**

22 responses were received. All supported the proposal, with the following comments:

AFOR welcome the proposal and considers the reclassification beneficial to its members as it would provide them with additional feedstock to process through their facilities. AVG commented that if appropriate scientific assessment is made then this proposal should benefit industry and society as a whole (resources and energy use) - the challenge will be in developing appropriate treatments that give assurance of safety. BPC support an evolving process where materials deemed to be low risk (and where appropriate systems are in place) fall under Category 3 and thereby become useable rather than requiring disposal. SEAFISH commented that the current system of ABPs becoming category 2 by default if they do not fall within category 1 or 3 is not based on risk and so should only be used as a temporary classification.

Croda said that for very low risk animal by-products, such as feathers, having to demonstrate that they are from animals fit for human consumption in relation to category 3 criteria, is disproportionate when the derived products are destined for use in non food/feed application. NFU would like to see a risk based analysis of the threats if any, surrounding the storage of Fleece wool (wool clipped from animals not intended for the immediate use in the food chain) on farms. Categorisation of sheep fleece/clipped wool (a material which is widely considered to pose minimal risk) as a Cat 3 ABP is creating a considerable cost burden and regulatory barrier for those producers looking to develop novel alternative markets for this material. The competent authority where it considers that there is no risk presented with regard to the spread of any transmissible disease should treat all products in the same way, such as milk, eggs, egg products and wool. The Competent authority should be allowed by the commission to judge what the risk base is for spreading on to the land these products and also storage on farm.

**Government response:**

The Government supports this proposal: reclassification of such ABPs means the controls on them will be more proportionate to the risk and will add value to their uses

**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)?**

**Summary of comments:**

28 Responses were received, with most approving the proposal.

However, concerns were raised by AFOR, who feel that the registration procedures are not clearly defined within this proposal and it is unclear what the Commission intends for 'registration'. CCC & CIWM thought this proposal gives cause for concern on a practical basis. The EA have the competency for the waste management aspects but the competency for animal health issues are with the Defra Vets (Animal Health). Also feel there is concern from the resource and waste management industry about what is meant by registration. Due to the lack of information about what registration actually means and what it could involve they can only support this proposal in principle. Point out the current system is onerous but it does mean that the UK is meeting the requirements of the ABPR.

ENVAR said that there is a strong feeling within the composting industry that there is a need for greater technical knowledge of the composting process in the context of ABPR by those regulating these controls. Currently, most expertise that exists lies within Animal Health. Other agencies, such as the Environment Agency, may have a greater knowledge of the composting process but they know less about the implications for compliance with ABPR. Feel regulation of ABPR should remain within the competence of Animal Health and that the need for this approval should not be removed.

AVG thought the rationalisation to allow recognition of the plants as handling ABPs but allowing approval or control through other legislation would have the benefit of streamlining bureaucracy. BPC thought that registration would be a significantly reduced burden compared with approval. Added that the quality of registered premises must be overseen by relevant ABP sections being included in whatever competent authority audit system is used, e.g. food hygiene regulations. The system must be such that good performers are rewarded and poor performers identified and encouraged to improve. A private individual commented that the proposal should only be considered if the authorities administering the other legislation are fully aware of the ABPR requirements and able to include these in their approval specifications. Approval / registration should be for a specified period and should only be renewable if the plant has operated within the regulations. EA commented that they would expect that where a plant is subject to both ABPR and WFD (under Environmental Permitting Regulations (EPR)) specific permits will still be required.

EFPPRA are of the view that companies manufacturing products of animal origin such as animal fats, greaves, blood products, gelatine etc. (i.e. companies operating (approved and registered) under Hygiene Regulations 852/2004 and 853/2004) should not be subject to the need to have a second registration or approval number when they sell their food grade products to a petfood or feedstuffs company. On the same issue, FEFAC welcomed the objective to avoid duplication of approval

procedures for operators already subject to approval under the EU Regulations on Food and Feed Hygiene, but felt the present wording for article 7(1) would extend this exemption from approval to feed businesses simply registered under Regulation (EC) No 183/2005, meaning that those Category 3 ABP processing plants which place derived products on the feed market and are registered for that purpose as feed business operators under Regulation (EC) No 183/2005 could be fully exempted of any approval procedure. Feel this goes beyond the objectives of the proposal and we would like to insist that any ABP processing plant processing should be subject to approval, whatever the Category of ABP it processes. PFMA said that the approval of only certain pet food plants, but not all, is not consistent. This could lead to trade issues, because in general when exporting pet food products, the receiving third country normally accepts only products from approved plants. In discussion their members have emphasised that they would prefer to be approved under the ABPR.

LACORS & TSI said that there seems to be a degree of duplication on the approval of plants and it makes sense to streamline the process. However, it is essential to ensure there are not conflicting requirements contained in the legislation. Local authorities already use a similar process with respect to feed businesses. Local authorities (and Animal Health) have found that carrying out joint inspections is very productive, and would encourage other agencies to do likewise.

**Government response:**

The Government supports this part of the proposal, which has the potential to reduce bureaucracy and simplify approval procedures. However, there will be a need to ensure that the replacement registration process is straightforward as possible and the Government will work with stakeholders and enforcement authorities to ensure implementing rules meet that objective. Animal Health will also seek a more joined-up approach with enforcement bodies to help ensure expertise is shared.

**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))**

**Summary of comments:**

16 responses were received. Generally the proposal was welcomed. LACORS and many others view was that ‘...we would support this proposal provided there is clear guidance issued on what is meant by “areas where access is impractical, or there are health and safety risks of collection”. LACORS also commented that ‘if this proposal is accepted, it is imperative that unambiguous guidance be provided which clearly sets out to all concerned what would be permitted in different circumstances. From an enforcement perspective, this would be a key requirement.’

AVG commented that experience so far indicates that pragmatic solutions are being found by Local Authorities to situations where recovery of fallen stock is not always possible, in contrast to those disposals of fallen stock that are clearly outside the regulation by intent. To extend derogation on fallen stock disposal to so called remote areas requires acceptance that these areas are truly remote. There could be

generous interpretation by other member states on what constitutes remote while others are more restrictive. It would take detailed guidance in Regulation to apply this fairly.

AIMS support the extension of derogations as far as possible, in the interests of reduced costs and improved bio-security. CLA commented that the extension of the derogation can only improve farm bio-security and animal health. Said that in the case of healthy wild animals a minimal or light touch regulatory approach is warranted- as did the EA & DI. EA & DI also noted that in all cases authorisation by the member state is required which will need a tiered level of regulation dependent on volumes of animal by-products involved, location, and whether or not there is an emergency. This should be in line with the options available in the EPR & will allow flexibility so that an appropriate level of control can be applied. In all cases, the minimum standard applied to burial should be as set out in the Code of Good Agricultural Practice ("The Water Code", revised 1998. MAFF/Welsh Office). Any disposal falling outside control under the ABPR will need control under the Groundwater Regulations. The EA has a position that sets out our requirements for authorisation of animal carcass burial.

FC have interpreted this proposal to mean that there is no obligation to collect and dispose of carcasses or parts of carcasses of wild animals that arise other than if they are suspected of being infected with a transmissible disease. There may be circumstances where it is more appropriate to have the discretion to dispose of wild animal carcasses than to leave them in situ. Even in remote areas it may be more appropriate to dispose of large carcasses arising from road collisions by burial or burning and it would be useful to extend this derogation to such circumstances. UKRA considered that no extension should be granted without absolute reason i.e. total lack of any collection system or in natural disasters.

NFU wished to comment on the definition of a remote area, feel it is imperative that member states through the competent authority have a great ability to define which areas are remote and therefore constitute a derogation on burial and burning, and that this should not only be based on impracticalities and health and safety factors, but also when the collection is deemed to be unacceptably onerous either financially or administratively. In addition, geographical criteria must be taken in to account and island status should be recognised by the competent authority. On a positive note NSA welcomes the Defra view that a more flexible view can be taken on the 'without undue delay' wording which surrounds the removal of animal by-products as part of fallen stock.

The RSPB welcomes the extension of the derogation. However, believe a change is required under Article 27.1, to broaden the scope of possible derogation to include in situ use as well as 'collection and use', which implies removal and use. This is of particular conservation importance, as fallen stock can provide an important food source for necrophagous bird species such as the red kite. This is a significant conservation 'use', with no 'collection' necessary (RSPB then makes suggestion as to wording).

Seafish commented that Fish Farms can occasionally have high levels of mortality. Some fish may be slaughtered to prevent the spread of fish disease that does not

make them unfit for human consumption and will continue into the food chain. But where the fish are not intended for human consumption any derogations for fallen stock should apply to these establishments also.

**Government response:**

The Government supports in principle the extension of the derogation regarding the requirement not to collect and dispose of fallen stock in accordance with the regulation, where access is impractical or there are health and safety risks associated with collection of carcasses. It agrees that circumstances where the derogation applies will need to be made clear and will work with enforcement authorities to ensure guidance meets that objective.

**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?**

**Summary of comments:**

16 responses were received. 8 were in favour, the remainder either did not support the proposal, or had concerns about the safety of such a measure and would need further information on the type of material and the risks involved before commenting.

ACDP TSE Working Group felt that on principle, they could accept the relaxation of the ABPR to allow import of certain high risk material for peer-reviewed research work, on the condition that the tightest controls are put in place for this process in view of previous cases of cross-contamination of imported materials, which have been responsible for TSE cases in animals. The ISIA and many others supported the proposal to allow the importation of this type of material only under specific controlled conditions.

AVG thought that imports of high-risk material for research should be considered and could be controlled through specific authorisation. This might be perceived as a regulatory burden but would provide the assurance about the safety of the import. Also raises the question of whether this sort of import should not be subject to cost recovery if specific authorisation was applied. CLA pointed out the clash between legitimate fears of the farming industry, and the need to do this work for important research purposes. Also suggest that those importing this material should be included within the 'Cost and responsibility sharing' process and perhaps have to post some sort of bond in case there is a disease breakdown as a result of their actions.

The NFU felt very strongly that high risk by products should be prevented from entering into the member state- were in favour of research on such material *within* the member state to help develop safe uses and methods of disposal which do not pose a threat to human or animal health. However, feel the potential risks of allowing imports of such material far outweigh the benefits. CIWM also asked for what research purposes would such material be imported or exported for, and was there not already appropriate material arising in the UK? Their main concern was the level

of containment and bio-security that would be required to ensure the material could not cause harm during its transportation. Asked how this proposal fits with the Transfrontier Shipment Regulations, and how is the material to be audited and monitored on its journey? Is the importation from only EU countries or is the relaxation to extend beyond EU boundaries?

Both CCC & CIWM thought that the outbreak at Pirbright of foot and mouth was a warning, and showed that if a bio-security research laboratory could release infectious material, relaxing the ABPR to allow high risk material for research needed to be carefully thought through.

**Government response:**

The Government supports this part of the proposal as the promotion of science and research in the UK may require the use of animal by-products of all categories. We appreciate the need for appropriate and proportionate controls with regard to the importation, subsequent use and disposal of high risk materials. The proposal allows Member States to set conditions to facilitate the importation of high risk material on a case specific basis. The Government will be consulting stakeholders further on the conditions to facilitate the importation of such material for science and research purposes when establishing implementing rules for the regulation in due course.

**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).**

**Summary of comments:**

8 responses were received, 6 positive, one neutral, and one against the proposal. The ACDP TSE Working Group is of the view that 'Category 1 material should never be fed to animals in zoos, animals kept as pets, or to any others known to be naturally or experimentally susceptible to TSE. The feeding of Category 1 material to these animals could regenerate a TSE problem that the UK has, for many years, made efforts to contain and reduce.'

However, the majority agreed with the proposal (providing adequate bio-security control mechanisms could be put in place, and the material was not high risk), as it would '...decrease costs to zoos without any corresponding risks to public or animal health, as the carcasses of zoo animals are automatically designated Category 1.' (AIMS). BIAZA commented that 'Zoo animals are carefully health monitored and are under veterinary supervision under zoo licensing. Therefore the risk is so low as to be non-existent. It is better for zoo carnivores to be fed culled stock from within the zoo, than from knackers.' BIAZA also suggest the inclusion of a definition of 'zoo' in the Regulation, the same as that in EU Directive 1999/22/EC: 'zoos means all permanent establishments where animals of wild species are kept for exhibition to the public for 7 or more days a year with the exception of circuses, pet shops and establishments which Members States exempt from the requirements'.

**Government response:**

The Government supports the proposal to permit feeding of certain category 1 material (i.e. where there is no TSE risk) to zoo animals and will work closely with

zoos to agree conditions under EU implementing rules to ensure this can be done safely.

**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))**

**Summary of comments:**

15 responses received. Views were split- 8 agreeing with the proposal, 7 either against or unsure how this proposal might work. NSA view was held by many- the proposal was welcome if it had the potential to remove costs and add value to some animal by-products, but they had concerns relating to public perception if changes are not well thought through and explained. In general the public view of the pet food industry was thought to make this an unattractive step to take.

The ACDP TSE Working Group was against the proposals for the same reasons they opposed the proposal in Q11, i.e. the potential regeneration of a TSE problem that the UK has, for many years, made efforts to contain and reduce. A number of other responders also had reservations about the safety of such a move. LACORS commented that plants processing such Category 2 material must have controls and processes in place to ensure all material is rendered safe before it leaves the plant.

The PFMA were not in favour of such a move. They suggested instead that the current article 28, paragraph 2, which includes a specific provision of imports from third countries of processed pet food and animal by-products for pet food production (which has proved satisfactory for EU and third countries), should be re-introduced.

In addition, with regard to Art 22 (e) (ii) PFMA is very concerned about the derogation allowing the direct feeding of animal by-products to pet animals. They feel that the permission granted to Member States to feed pet animals with category 2 & 3 material without taking into account the provisions on disposal and use laid down in the regulation is against the general principles of harmonization of animal by-products rules and could lead to not properly controlled pet feeding; in case of “accidents” they also felt that the pet food industry could be blamed, rather than the direct feeding of category 2 or 3 material.

**Government response:**

The Government does not support an extension of the use of category 1 and 2 material for feeding to pets given the potential risks to animal and public health (except in the case of clearly defined circumstances where imports of certain material meet category 3 requirements except in regard to their treatment with certain specified substances- this condition also applies under current legislation). This position has been supported by other member states and it is likely that the proposal will be modified so that only category 3 material may be used (with the above derogation for certain imports).

**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.**

**Summary of comments:**

25 Responses were received, with similar points raised by many.

NFU (and many other respondents) made the point that removing the option to allow former food stuffs to be disposed to landfill may provide an incentive for greater organic recycling (E.g. composting, anaerobic digestion) of former foodstuffs. This could provide cost-savings to those companies looking to dispose of their former foodstuffs and further economic opportunities for those in the waste management industry looking to recycle/re-process the material. General agreement that the principle of removing bio waste from landfill is an important one in ensuring that the UK meets its landfill diversion targets in the future.

However, many respondents raised concerns that sufficient time should be allowed for Member States to develop the necessary infrastructure to cope with the foodstuffs that would no longer be disposed of via landfill.

ESA pointed out that a number of the UK's alternative disposal facilities (e.g. composting plants) are currently only permitted to accept catering waste, and would not therefore be able to accept former foodstuffs diverted from landfill, which would fall under Category 3. Said that the waste management sector relies on regulatory certainty in order to make investment in new infrastructure. If the Government made a clear policy statement that the landfilling of former foodstuffs would not be permitted from July 2011, their Members would be in a stronger position to invest in the new infrastructure necessary to handle the diverted waste. Said that a clear signal from HMG on this matter would be very welcome.

SUWP, SHWP & LARAC (amongst others) pointed out that due to the Landfill Directive, increasing quantities of wastes are likely to be diverted from landfill and in many cases to ABP compliant treatment. Question whether sufficient ABP compliant treatment capacity will be available when needed, and whether with larger quantities of waste vying for ABP treatment capacity, a negative impact of increased ABP facility gate fees for Local Authorities might be a possible side effect. A further impact is the additional containers, vehicles and collections that will be required for the food waste stream and this translates directly into extra costs for Local Authorities. Suggest that provided process and product criteria are set sufficiently high (as in PAS 100) vegetative food waste should be permitted in open composting systems as they are in other European countries. SUWP strongly recommend that centrally supported funding be provided to mitigate the impact on local authority budgets from increased collection and disposal costs for meeting the requirements of the Regulations. SWP & LARAC did not support an outright prohibition on the landfilling of low risk ABP materials and suggest that landfill is retained as a disposal option to retain flexibility.

RWE said that the remaining barrier to the use of food meal etc for renewable energy (e.g. biomass co-firing) is its classification as a waste. Propose that this could be overcome by re-classifying the material as a by-product (not a waste) or given that it is a biomass, to include an appropriate exclusion in the WID regulations. NFU

also had concerns that the resultant outputs of the bio-waste treatment process (compost, digestates etc) need to have a guaranteed market. While there is increasing demand in the agriculture and horticulture sector for use of these materials as soil conditioners/biofertilisers, there is a finite amount of suitable farmland to which this material can ultimately be applied to. There is also much competition among a variety of organic resources – manures, biosolids, composts, digestates, and other industrial process wastes (paper pulp, coffee grounds etc). In addition, for these materials to gain acceptance in this market, farmers and their customers in the retail supply chain need to be assured of its quality and consistency. The risk is that large amounts of former foodstuffs could end up going for biological treatment but there may not be a guaranteed market for the output material. Also have concerns that currently there may not be sufficient biological waste treatment capacity to meet the demand for increased bio-treatment that would arise if all former foodstuffs were prohibited from going to landfill, and that the planning system may be unable to deliver the necessary infrastructural capacity needed at sufficient speed.

AIMS made the point that if landfill is precluded for commercial food waste, it would appear inequitable and counterproductive to simultaneously regulate bio-fuel production.

TSI & LACORS were concerned that this proposal could cause further confusion. Would like the Government to decide where it stands with respect to former foodstuffs as feel the current rules for the disposal of catering waste and former foodstuffs are inconsistent. Are of the opinion that all waste food containing meat from all food businesses (including caterers but not households) should not be permitted to be sent to landfill. Donarbon said they do not accept former foodstuffs because regulations in this area are confusing. Would also wish to see clarity in this area and robust regulations as to what constitutes former foodstuffs, and how they should be treated.

ACS are deeply concerned about a possible redefinition of former foodstuffs. Do not want to see a significant increase in the number of affected products. Main concerns are increase in cost burdens for separate collections, and difficulties in separating waste for retailers. Said that landfill already receives considerable amounts of foodstuffs from domestic households so allowing eligible material as former foodstuffs from production premises would not increase the risk to animal or human health. Pointed out that environmental legislation is already attempting to control the amounts that are landfilled.

Seafish had concerns that this could have a huge impact on processors and retailers. There is currently a derogation that allows products of animal origin that were fit but no longer intended for human consumption to be subject only to environmental controls. This derogation applied to seafood that had been processed to remove the risk and is used widely by processors and retailers to enable them to dispose of their waste to landfill where there is no economic alternative. Disposal of waste is a particular problem for the shellfish sector. Felt that the impact of the loss of this derogation had been omitted from consideration in the impact assessment, and it should be considered as it could have huge financial implications across many sectors if there is no alternative measure in the Regulation. Suggest changing the

definition of catering waste to include waste from processing establishments to prevent this impact.

FDF propose that certain heat treated former foodstuffs, intrinsically of no or low or no risk, are removed from the scope of the Regulation altogether, leaving control of such materials to environmental regulation.

ACS & CIWM said that due to the rise in landfill tax some bio-treatment processes are now comparable to landfill so the cost to the food manufacturing sector may not be as great as it was three years ago.

**Government response:**

The Government believes that controls on use and disposal of former foodstuffs should be proportionate to the risk, and that under properly controlled arrangements it should be possible for certain former foodstuffs to be fed to livestock and disposed of to landfill subject to environmental rules and the Government's wider aim to progressively move away from use of landfill as a disposal route. Although the proposal makes no specific provision for disposal of former foodstuffs to landfill, it is the Government's understanding that the Commission intends to address this issue under discussions on implementing rules.

**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?**

**Summary of comments:**

10 responses received. 1 supporting the proposal, the remainder against or neutral. Many commented that the final destination of a carcass should be determined by the cause of death and not the species, and that the burial of pet horses should not be prohibited in cases where the horse has died from natural causes. In cases where a horse has died from disease it would be an appropriate control to ensure disposal of the carcass in line with ABPR controls.

AIMS view is that a prohibition on the burial of horses is scientifically baseless, and an infringement of personal liberty without any public benefit. Their view is that such a prohibition will not be enforced and such a measure would continue the steady process of bringing the law in to disrepute and contempt. The CA are also against this proposal- do not believe the burial of pet horses poses a significant environmental threat and are unaware of any pet horses being buried close to water that has resulted in groundwater contamination. Their view is that the banning of this activity will only result in placing a further financial burden on hard pressed rural families.

LACORS & TSI felt that '...the current legislation in relation to horses is difficult to enforce due to there being no definition of the word 'pet', and ideally it would make sense to have all horse carcasses disposed of in accordance with ABPR. However, unlike most other livestock in the UK there is no detailed information as to the

location of all establishments where horses are kept, which makes it even more difficult to enforce the legislation. Therefore unless a lot more resources are put into this area, the requirement to dispose of all horses as ABPR will be almost impossible to enforce uniformly. However, more should be done to educate horse owners and encourage them all to dispose of carcasses in accordance with ABPR.'

**Government response:**

The Government has opposed the ending of the derogation which currently permits burial of pet horses under safe conditions. During negotiations there has been support from other member states for this position and it seems likely that the proposal will be amended to provide flexibility for competent authorities in member states to permit burial of horses where they are satisfied this can be done without a risk to animal or public health or the environment. Assuming this is the case the Government will work with the horse sector and devolved and local authorities to ensure risk proportionate and workable arrangements remain in place for disposal of horses in the UK.

**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)).**

**Summary of comments:**

21 responses received. 15 in support of the proposal, with 5 in doubt about the actual interpretation of the Commissions wording, and 1 against.

Although some respondents agreed with DEFRA's comment that the ABPR proposal ".....as insufficient - for providing legal certainty.....", UKRA feel that this is incorrect, and that the ABPR proposal is clear. However, they suggest that even more certainty could be achieved if a definition of "Combustion" was included in Article 3. UKRA requests that DEFRA should either accept the UKRA interpretation of the facts, i.e. that there is sufficient clarity and therefore certainty in the new ABPR (with additional definitions as appropriate) or propose a text that would provide the "legal certainty" for use of Tallow as a fuel in combustion. They consider that this action would be in accordance with DEFRA's previously stated wishes for UKRA members to be able to use Tallow as a "carbon neutral" fuel in place of fossil fuels.

Many respondents were of the view that removal of the requirement for tallow to be considered automatically waste would benefit the environment as well as industry. Many agreed with PFMA's view- the issue of burning of tallow needs to be clarified to enable to the use of tallow as a fuel for combustion, with the removal of the reference to the Waste Incineration Directive (WID) as a first step.

EA commented that they saw no objection to the removal of the mention of WID from the ABPR, but it was only cosmetic. Their view was that incineration and co-incineration has to be under WID as per preamble 34. So WID does not disappear but is simply hidden, and its requirements will need to be met. These articles say that incineration and co-incineration should take place in an 'approved' or

'registered' plant. Assume this means either approved under ABPR or registered under WID. Note that the implication is that Meat and Bone Meal (MBM) will enjoy the same exclusions (from WID) as tallow which is something new, and ask whether this is intentional? There is a category "used as a fuel for combustion". Waste could be a fuel. In fact the definition of co-incineration plant includes "in which waste is used as a regular or additional fuel". To avoid confusion, suggest it may be best to say something like, "in case the category 1 (or 2 or 3 in articles 20, 21) is not waste, used as fuel for combustion". Also think that the word 'combustion' should be deleted because it restricts the use of fuel to combustion only. For example 19(f) should read "in case the category 1 is not waste, used as fuel".

NFU feels that there needs to be a clear definition of combustion and incineration. Propose definitions as follows:

**Combustion:** *“Animal by-products or products derived thereof, which directly are used as an energy source in substitution of fossil energy sources, or together with other kinds of biomass, in a plant approved by the National Authorities.”*

**Incineration:** *“Incineration of Animal By-Products or products derived thereof, which must be discarded as waste”*

Also suggest deleting the wording “waste” more or less totally from the proposal, and only use the word waste in situations where ABP **must be discarded**. On the specific question about the legal certainty surrounding circumstances when the burning of tallow needs to comply with WID, NFU believe that there are a couple of options available to help provide greater clarity. These are:

- The Implementing Regulations could be used to provide more detail or information on these circumstances.
- It could be argued that the recently agreed Waste Framework Directive, which includes provision for by-products (Article 5.1) and end-of-waste criteria (Article 6), could help provide clarity that tallow is not a waste and that it can be removed from the realms of waste legislation.

RWE commented that it can be readily demonstrated that biomass (e.g. Tallow) that has been produced to a fuel specification fulfils a quality criteria and therefore should not be deemed a waste. However, feel that given developments in market and technical ability, tallow should be classed as a product or by-product of a process, and thus be available as a fuel for combustion or co-combustion, or as a biomass, excluded from the WID. Would also strongly support reconsideration of the point at which materials cease to be defined as waste, and are instead defined as products or by-products. In the End-of-Waste test, the EU Waste Framework Directive specifies criteria for the endpoint of waste classification (provides criteria). It can be readily demonstrated that Tallow fulfils all these criteria and therefore should not be automatically be deemed a waste at source and see registration removal of the requirement to register under the Waste Incineration Directive. Strongly seek reconsideration of the obligations under the WID on these grounds.

UKELA questions the need for incineration and co-incineration plants to register under the ABPR where there is other legislation in place governing the process, and notes that the proposal would reduce the regulatory burden on operators of such

plants by avoiding the need for such plants to be “dual licensed” under both the Regulation and the Waste Incineration Directive. UKELA also reiterates its comments in relation to Q1 of the consultation regarding the point at which ABPs become finished products, and urges Defra to press for end-of-waste specific criteria for tallow to be considered under the comitology procedure provided for in Articles 6(2) and 39(2) of the Waste Framework Directive at the earliest opportunity.

UKELA notes that the exemptions in Article 7 of the proposed Regulation do not extend to plants which use animal by-products or derived products as a fuel for combustion. Such fuels may not fall within the definition of “waste” under the Waste Framework Directive (because they have undergone a recovery process and have ceased to be waste), but may still be classified as animal by-products or derived products for the purposes of the Regulation. The combustion of such fuels would require both authorisation under the Regulation and (for plants with a rated thermal input exceeding 50MW) a permit under the IPPC Directive (2008/1/EC). In the UK, such plants would therefore require an authorisation under the Regulation and an Environmental Permit (even for plants under 50MW). This would give rise to an anomalous situation in which plants incinerating or co-incinerating animal by-products or derived products which are classified as waste under the Waste Framework Directive would require only one permit (under the Waste Incineration Directive), but plants which are used for the combustion of non-waste animal by-products or derived products as fuel would be subject to a dual licensing requirement.

UKELA therefore suggests that the exemption in Article 7 of the proposed Regulation should also apply to combustion plants which have a permit to operate in accordance with the IPPC Directive. UKELA notes that one of the aims of the proposed Regulation is to prevent and minimise risks to animal and public health arising from animal by-products and derived products, but believes that the requirements of the IPPC Directive on their own would be sufficient to ensure that these aims are achieved by plants which use animal by-products or derived products as a fuel for combustion.

CRODA did not agree. They thought where material is disposed of by burning (even with heat recovery) it should be in compliance with WID, in the same way that use for technical applications should be in compliance with IPPC. Said that the application of WID does not prevent the use tallow or other ABPs as fuels, it only ensures that appropriate controls are in place. Project Integra had concerns that prior to any ABP being treated through incineration, it is important to be reassured that the process will destroy any suspected pathogens to at least the standards required under the current regulations. Whilst the temperature requirement will be greatly exceeded in an incinerator compared to other ABP processes (AD or in-vessel composting), the time factor may not reach the same level. It is possible that in some incinerators waste can occasionally pass through the process very quickly without being fully combusted, especially if surrounded by large quantities of packaging. Whilst having the flexibility to treat ABP through incineration will be welcome, the uptake may be varied dependent upon existing capacity commitments and the desire of incinerator operators to handle such materials. Large quantities of high CV material such as tallow would need to be carefully managed and blended before being processed through a facility designed for general refuse.

**The Way forward:**

The Government supports the principle of the proposal which seeks to clarify the circumstances when tallow can be used as a fuel for combustion and when there is a requirement for it to be incinerated or co-incinerated as a waste. However, it believes that further clarification is desirable under Waste legislation to provide certainty about when particular operations are within the scope of the Waste Incineration Directive and will be pressing for such clarification to be provided.

**Comments on the Impact Assessment- and on other aspects of animal by-products legislation:**

Defra have also received various comments on other aspects of the proposal, and on the impact assessment, from a number of stakeholders impacted by legislation controlling the use and disposal of animal by-products. These responses will be carefully considered and will help inform discussions on the proposal, and where appropriate on the rules implementing the regulation.