

COMMISSION REGULATION (EC) No 811/2003**of 12 May 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****(Text with EEA relevance)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to the 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⁽¹⁾, as amended by Commission Regulation (EC) No 808/2003⁽²⁾, and in particular Article 22(2), Article 24(6) and Article 32(1) thereof,

Whereas:

- (1) Regulation (EC) No 1774/2002 provides for a prohibition on the feeding of animals with processed animal protein derived from animals of the same species. Derogations may be granted in relation to fish after consultation of the appropriate scientific committee.
- (2) The Scientific Steering Committee issued an opinion on 17 September 1999 on the risks arising from recycling animal by-products as feed with regard to propagating TSE in non-ruminant farmed animals. It also issued another opinion on 6 and 7 March 2003 on the feeding of wild fishmeal to farmed fish and recycling of fish with regard to the risk of TSE. The Scientific Committee on Animal Health and Animal Welfare adopted an opinion on 26 February 2003 on the use of fish by-products in aquaculture. According to those scientific opinions, the potential risk from recycling fish may be reduced by fulfilling a number of conditions.
- (3) Accordingly, a derogation should be granted from the intra-species recycling ban for fish under Regulation (EC) No 1774/2002. In order to avoid a risk to public and animal health, that derogation should be subject to certain conditions.
- (4) It is necessary to provide for transitional measures, to allow adequate time for the industry to adjust to the new requirements.
- (5) The Scientific Steering Committee issued an opinion on 16 and 17 January 2003 on the safety vis-à-vis TSEs as regards the burial and burning of potentially TSE infected animal materials.

(6) In order to take account of that opinion it is necessary to lay down implementing measures pursuant to Article 24(6) of Regulation (EC) No 1774/2002 on how burial and burning of animal by-products should be carried out.

(7) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS REGULATION:

*Article 1***Transitional measures regarding the intra-species recycling ban for fish**

Pursuant to Article 32(1) of Regulation (EC) No 1774/2002, the Member States may continue to apply until 31 December 2003 at the latest current standards and rules on the feeding of fish without implementing the ban provided for in point (1)(a) of Article 22 of that Regulation with regard to fish.

*Article 2***Derogation from the intra-species recycling ban for certain fish**

1. Pursuant to Article 22(2) of Regulation (EC) No 1774/2002, a derogation is granted to Member States with regard to the feeding of fish with processed animal protein derived from the bodies or parts of bodies of animals of the same species.
2. However, the derogation provided for in the paragraph 1 shall not apply to the feeding of farmed fish with processed animal protein derived from farmed fish of the same species.

*Article 3***By-products from wild fish**

Wild fish and by-products from wild fish caught in the open sea or in lakes may be used:

- (a) for the production of feed for fish; and
- (b) as feed for fish.

⁽¹⁾ OJ L 273, 10.10.2002, p. 1.

⁽²⁾ See page 1 of this Official Journal.

*Article 4***Requirements for feed for farmed fish**

Fish and animal by-products and products derived therefrom intended as feed for farmed fish pursuant to Article 2 shall comply with the requirements set out in Annex I.

*Article 5***Control measures**

The competent authority shall take the necessary measures to control

- (a) the appropriate processing and use of feed containing processed animal protein derived from the bodies or parts of bodies of animals of the same species;
- (b) the animals that are fed with the feed referred to in point (a), including strict supervision of the health status of those animals.
- (c) compliance with the requirements of Annex I.

*Article 6***Disposal of animal by-products in the event of an outbreak of disease**

1. In the event that the competent authority rejects transport of animal by-products to the nearest incineration or processing plant in accordance with Article 24(1)(c) of Regulation (EC) No 1774/2002, the competent authority may approve the disposal of those by-products

- (a) as waste by burning or burial on the premises on which the animal by-products originate;
- (b) in a landfill approved under Directive 1999/31/EC; or
- (c) as waste by burning or burial at a site which minimises the risk to animal and public health and the environment, provided that the site is located within a range of distance sufficient to enable the competent authority to manage the prevention of the risk to animal and public health and the environment;

2. burning and burial at sites referred to in points (a) and (c) of paragraph 1 shall take account of Community and national environmental and public health legislation and guidance.

3. The competent authority shall supervise the burning and burial of animal by-products and take the measures necessary to ensure that the requirements set out in Annex II are complied with.

4. For the purposes of this Regulation, the definition set out in point A of Annex II on 'onsite burning or burial' shall apply.

*Article 7***Monitoring of the remote areas used for burning and burial of animal by-products**

In the case of the disposal of animal by-products originating in remote areas as provided for in Article 24(1)(b) of Regulation (EC) No 1774/2002, the competent authority shall monitor at regular intervals the areas categorised as remote areas to ensure that the requirements of Annex II to this Decision are complied with.

*Article 8***Burning and burial of bees and apiculture products**

In the case of bees and apiculture products falling under Article 5(1)(g) of Regulation (EC) No 1774/2002, the competent authority may, where necessary, decide that they may be disposed of as waste by burning or burial on site, provided that all necessary measures are taken to ensure that the burning or burial of bees and apiculture products does not endanger animal or human health and the environment, taking account of Community and national environmental and public health legislation and guidance.

*Article 9***Keeping of records**

In the case of burning or burial as provided for in Articles 6, 7 and 8 the person responsible for burning or burial shall keep records of

- (a) the quantities, categories and species of animal by-products buried or burned;
- (b) the date and place of burial and burning.

*Article 10***Entry into force**

This Regulation shall enter into force on the third day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 May 2003.

However, Articles 2 to 5 shall not apply until 1 January 2004.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 12 May 2003.

For the Commission

David BYRNE

Member of the Commission

ANNEX I

Requirements for feed and records of processing plants and feed manufacturing establishments involved in the processing of fish by-products and products derived therefrom intended for feed for fish

A. Requirements for fish and animal by-products intended as feed for fish

Fish and animal by-products and products derived therefrom intended as feed for fish shall comply with the following requirements:

- (a) be handled and processed separately from material not authorised for that purpose;
- (b) originate from wild fish or other non mammal sea animals caught in the open sea or in lakes for the purpose of fishmeal production, or from fresh by-products from wild fish processed in plants manufacturing fish products for human consumption;
- (c) have been processed in a processing plant approved under Article 17 of Regulation (EC) No 1774/2002 to a standard which ensures a microbiological safe product;
- (d) be packaged after treatment and before distribution in packaging that is clearly and legibly labelled with the name and address of the feed manufacturing establishments and bearing the words 'may be used for the feeding of fish'.

B. Records to be kept by processing plants and by feed manufacturing establishments, involved in the processing of fish by-products and in the manufacture of products derived therefrom intended as feed for fish

Processing plants and feed manufacturing establishments must keep the following records in relation to the animal by-products or products derived therefrom:

- (a) origin, quantity and date of any received consignment of animal by-products or of fishmeal;
 - (b) daily records of quantities of fishmeal or feed produced and dispatched.
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ANNEX II

Implementing measures pursuant to Article 24(6) concerning derogation on the disposal of animal by-products*A. Definition*

For the purpose of this Regulation 'on site burning or burial' means burning or burial on the premises on which the animal by-products originate or, if suitable bio-security measures are taken to prevent the spread of disease from the transport of the animal by-products, in a landfill site approved under Directive 1999/31/EC, or at a site which minimises the risk to animal and public health and environment, situated within a range compatible with the continuing supervision capability of the competent authority, appropriate to the management of the spreading risk, and taking account of Community and national environmental and public health legislation and guidance.

B. Disposal of animal by-products in the event of an outbreak of disease

1. The competent authority must supervise the burning of animal by-products and take the measures necessary to ensure that they are burnt:
 - (a) on a properly constructed pyre and the animal by-products reduced to ash;
 - (b) without endangering human health;
 - (c) without using processes or methods which could harm the environment, taking account of Community and national environmental and public health legislation and guidance to minimise to the extent compatible with public order consideration:
 - (i) risk to water, air, soil and plants and animals;
 - (ii) causing a nuisance through noise or odours; and
 - (iii) adversely affecting the countryside or places of special interest.
2. The competent authority must supervise the burial of animal by-products and take the measures necessary to ensure that they are buried:
 - (a) in such a way that carnivorous animals cannot gain access to them; and
 - (b) in:
 - (i) a landfill site approved under Directive 1999/31/EC; or
 - (ii) another site without endangering human health.
3. In the case of burial at a site other than an approved landfill, the competent authority must take the necessary measures to ensure that the animal by-products are buried without using processes or methods which could harm the environment, taking account of Community and national environmental and public health legislation and guidance to minimise to the extent compatible with public order consideration:
 - (a) risk to water, air, soil and plants and animals;
 - (b) causing a nuisance through noise or odours; and
 - (c) adversely affecting the countryside or places of special interest.
4. If the animal by-products are to be moved from the premises of origin, the competent authority must ensure that:
 - (a) the animal by-products are transported in secure, leak-proof containers or vehicles;
 - (b) the loading and unloading of the animal by-products is supervised by the competent authority;
 - (c) the vehicle wheels are disinfected, using a disinfectant approved by the competent authority, upon leaving the site of origin;
 - (d) containers and vehicles used for transporting animal by-products are thoroughly cleansed and disinfected, using a disinfectant approved by the competent authority, after unloading of the animal by-products; and
 - (e) adequate escorts for the vehicles, leak testing and double covering are provided.

C. Disposal of animal by-products in remote areas

In the case of disposal of animal by-products in remote areas in accordance with Article 24(1)(b) of Regulation (EC) No 1774/2002:

- (a) the competent authority shall monitor regularly the areas categorised as remote areas to ensure that those areas and the disposal operations provided for in Article 24(1)(b) are properly controlled.

- (b) burning or burial shall take account of Community and national environmental and public health legislation and guidance to minimise to the extent compatible with public order consideration:
- (i) risk to water, air, soil and plants and animals;
 - (ii) causing a nuisance through noise or odours; and
 - (iii) adversely affecting the countryside or places of special interest.
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