



Department
for Environment
Food & Rural Affairs

www.gov.uk/defra

Joint Defra/FSA Consultation on streamlining/updating provisions of the Animal By-Products (Identification) Regulations 1995

Summary of responses

Date: July 2013

© Crown copyright 2013

You may re-use this information (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence, visit www.nationalarchives.gov.uk/doc/open-government-licence/ or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or e-mail: psi@nationalarchives.gsi.gov.uk

This document/publication is also available on our website at: www.gov.uk/defra

Any enquiries regarding this document/publication should be sent to us at:

ABP Team, Defra, Nobel House, 17 Smith Square, London, SW1P 3JR

Contents

Background.....	1
Summary of Responses.....	1
Responses on the provision requiring Food Business establishments to stain ABPs.....	2
Responses on the provision requiring ABP premises to sterilise/stain ABPs.....	6
Responses on the provisions on segregation, storage and labelling of ABPs	8
The Way Forward	8

Background

The Animal By-Products (Identification) Regulations 1995 (ABPI) were made under the Food Safety Act 1990 to help combat fraud in the meat industry by requiring **Food Business establishments** (i.e. slaughterhouses, cutting plants, game handling establishments and cold stores) and certain **ABP premises** (i.e. Collection Centres such as hunt kennels and knackers yards) to **stain certain animal by-products** (ABPs) and comply with rules on their **segregation, storage and labelling**, to help prevent their illegal diversion to the human food chain and thereby safeguard public health. However, in the wake of the BSE crisis and the 2001 Foot and Mouth Disease outbreak in the UK, the European Commission has now introduced much more stringent and comprehensive EU wide controls on ABPs in order to better protect human and animal health. This means there is now duplication of legal provisions and conflicting terminology between the EU legislation and the ABPI.

The principal aim of this joint Defra/FSA consultation was therefore to seek views on (a) the current requirements for staining certain Animal By-Products (ABPs) at Food Business establishments and ABP premises, and on (b) the revocation of certain provisions in the ABPI to remove duplication with other legislation. (The staining of Category 1 Specified Risk material was excluded as this is covered by separate legislation on TSEs.)

Summary of Responses

The consultation package was sent to 33 representative bodies; it was also made available on the Defra website. A total of **5 responses** were received from the following:

- British Meat Processors Association
- FABRA and the UK Renderers Association Ltd (joint response)
- Pet Food Manufacturers Association
- Smithfield Market Tenants Association

Responses on the provision requiring certain Food Business establishments to stain ABPs

Question 1- Do you agree with the Government's preference to retain this provision i.e. to require slaughterhouses, cutting plants, game handling establishments and cold stores to continue to stain the same ABPs as at present, including the requirement to stain prior to freezing (regulation 8) or moving the ABPs from the premises (regulation 10)? If not, please explain.

Summary of comments:

4 comments received. The rendering sector supported the retention of staining requirements for Food Business establishments. However, the production sector thought EU legal provisions on traceability of ABPs were sufficient, making the ABPI staining requirements an unnecessary additional burden.

Government response:

The Government will retain the staining provision for Food Business establishments when amending domestic legislation on ABPs. Permanent staining reduces the possibility of fraudulent diversion of unfit ABP material into the human food chain by providing a clear and visible deterrent that is also relatively cheap and easy to carry out. Although the EU ABP Regulations do contain traceability requirements we consider that these alone would not protect adequately against deliberate diversion. Removing staining would require increased levels of official supervision and enforcement to maintain the same level of health protection, which would be costly and resource intensive for Government and would still place requirements on Food Business establishments. However, when we amend the legislation we will update and simplify the descriptions for ABPs to be stained using current EU terminology, and remove redundant descriptions. We will also revoke ABPI regulations 8 (on freezing) and 10 (on movement) to give greater flexibility to operators.

Question 2 - Do you think that any of these ABPs could now be excluded from the requirement to stain? Please outline any particular burden the staining of those ABPs might impose and give costs if possible.

Summary of comments:

4 comments received. The rendering sector commented that staining usefully allowed processing plant operators to check the ABP risk category (1-3) of received material and that no ABPs as currently covered by the ABPI should be excluded from staining. The production sector re-iterated that EU traceability provisions made staining unnecessary. Staining imposed burdens on space, labour and equipment.

Government response:

The Government will continue to require Food Business establishments to stain the same ABPs when it amends domestic legislation on ABPs. However, to make the legislation clearer and simpler we will remove out of date or redundant descriptions and describe ABPs to be stained using current EU terminology.

Question 3 - Are there any alternative controls to staining that you would like to be available? State how these would deter fraudulent diversion of ABPs to the food or feed chain and please provide evidence of equivalent level of protection to public and animal health.

Summary of comments:

4 comments received. The rendering sector said alternatives were not readily available and that staining was therefore very important. The production sector did not cite alternatives to staining, considering the main requirement was to validate, verify and correctly enforce the current EU traceability system (e.g. IT linkages to rendering companies and tracking of ABP consignments from despatch at slaughterhouse to arrival at ABP premises).

Government response:

The Government will not make alternative controls to staining available to Food Business establishments as no suggestions were put forward. The EU traceability requirements will continue to apply.

Question 4 - Do you agree with the estimated industry costs (by sector) for staining stated in section 6.12 of the Impact Assessment? If possible, please provide annual costs (split into materials and labour) of staining for your sector or establishment and state if this is a significant burden on your overall business costs.

Summary of comments:

2 comments received. The production sector were unable to provide comprehensive details of costs but some commented that they were a significant burden and underestimated two-three fold in the IA.

Government response:

Although the Government will retain the staining requirements for Food Business establishments, it will relax domestic legislation on ABPs so they can use other colouring agents (if similarly visible/permanent) in addition to Brilliant Black. This will enable

operators to make use of cheaper dyes that might become available in future so they can reduce their costs.

Question 5 - Do you agree with the one-off “familiarisation” costs stated in sections 6.18, 6.22 and 6.26 of the Impact Assessment? If not, please provide your own estimates.

Summary of comments:

2 comments received. The rendering sector agreed with the costs stated; the production sector did not comment.

Government response:

The Government will assume the cited estimates are realistic.

Question 6 - Do you think there would be increased risks/costs or benefits to (a) public health (b) animal health or (c) industry reputation, if the staining requirement for Food Business establishments was revoked entirely?

Summary of comments:

4 comments received. The rendering sector considered that revoking the staining requirement would lead to increased risks in all three areas. There would be (a) an increased risk to public health from TSE agents (from Category 1 ABPs) and unfit materials (from Category 2 ABPs) not being clearly identified and entering the food chain; (b) an increased risk to animal health from TSE agents and unfit materials contaminating Category 3 materials and, (c) an increased risk to industry reputation from a reduced demonstration of compliance with legislation.

However, the production sector did not believe that revoking staining would increase the risk to public or animal health or to industry reputation, provided the EU ABP traceability system was validated, verified and enforced. They added that the vast majority of ABP material was produced by a relatively small number of companies and that control systems should be proportionate to the actual risk. They believed the costs of staining were significantly disproportionate to the risk and revocation would reduce costs.

Government response:

The Government’s view remains that the risks/costs to public and animal health and to industry reputation would increase should the effective visual deterrent of staining be removed and not counterbalanced by significantly increased levels of costly official supervision and enforcement. The risks/costs would increase due to increased likelihood of food poisoning incidents, animal disease outbreaks and industry PR and recall operations.

Question 7 - Are there any other colouring agents (please specify) in addition to Black PN or Brilliant Black BN you would like to be available? If yes, please comment on their costs relative to current practise and, if possible, on their safety (under Health and Safety legislation) and efficacy of staining compared to the currently permitted colouring agents Black PN or Brilliant Black BN.

Summary of comments:

3 comments received. Neither the rendering nor the production sector proposed alternative colouring agents to be used in Food Business establishments.

Government response:

Although suggestions were not received, the Government will relax domestic legislation on ABPs to allow other colouring agents (if similarly effective) to be used in addition to Brilliant Black. This will enable operators to use cheaper dyes that might become available in future so they can reduce their costs.

Question 8 - Do you think the legislation should specify (i) which colouring agent(s) are permitted or (ii) what constitutes adequate staining (e.g. “must stain with a substance that denatures product and is permanent”) with recommended colouring agents in guidance instead?

Summary of comments:

2 comments received. The rendering sector stressed that permitted colouring agents should be specified in the legislation, with additional guidance on what is meant by “adequate” staining. The production sector did not comment.

Government response:

The Government will relax domestic legislation on ABPs to allow Food Business establishments to use other colouring agents in addition to Brilliant Black provided they are clearly visible on the ABP including after chilling or freezing. We will also review official guidance on staining to ensure it is comprehensive and clear.

Question 9 - Do you have any comments on what constitutes “adequate staining” for different ABPs? (e.g. regarding dilution rates, visibility, carcase slashing etc.)

Summary of comments:

2 comments received. The rendering sector thought “top sprinkling” was unlikely to be adequate and hoped regulators would provide diagrammatic or photographic guidance on what was considered to be “adequate”. The production sector didn’t comment.

Government response:

The Government will review its online guidance to ensure that what is meant by “adequate staining” is clear and comprehensive.

Question 10 - Do you agree that it would be more coherent to move the staining provisions for Food Business establishments from the ABPI to the Animal By-Products (Enforcement) (England) Regulations 2011? Can you monetise any benefit from this?

Summary of comments:

2 comments received. The rendering sector agreed the provisions should be moved to the ABP (E)(E) Regulations. Also, the different responsibilities falling to operators, inspectors etc. should be clearly defined in guidance. The production sector did not comment.

Government response:

The Government will bring into force the Animal By-Products (Enforcement) (England) Regulations 2013 to replace the 2011 version and to revoke the ABPI Regulations 1995 in respect of England. The ABPI provision (regulation 6) that requires Food Business establishments to stain will be updated and transferred to the ABP (E)(E) 2013 where it will sit more appropriately with other controls on ABPs. We will also review our online guidance to ensure it is comprehensive.

Responses on the provision requiring ABP premises to sterilise/stain ABPs

Question 11 - Are there any “other treatments” that you think should be available?

Summary of comments:

2 comments received. The rendering sector stated there were no “other treatments” that should be available. The production sector did not comment.

Government response:

When the Government revokes Regulation 7 of the ABPI, which duplicates the staining requirement for Collection Centres already in Commission Regulation 142/2011 (Annex VI, Chapter II, Section 1 paragraph 4), operators will automatically be allowed to use “other treatments” as cited in paragraph 4. In practise the AHVLA will consider requests on a case by case basis. This is already implemented by the ABP (E)(E) Regulations.

Question 12 - As a Collection Centre (state type) what are your annual costs for staining Category 2 ABPs for supply to Final Users for feeding purposes? What are these costs as a percentage of annual turnover?

Summary of comments:

No comments received.

Government response:

The Government will assume that the staining costs for Collection Centres cited in its Impact Assessment are a realistic estimate.

Question 13 - Do you think the legislation should (i) specify the permitted colouring agent(s) or (ii) state what constitutes adequate staining (e.g. “must stain with a substance that denatures product and is permanent”) with recommended colouring agent(s) in guidance instead? (The latter would place the emphasis on the operator to show they dye used is effective)

Summary of comments:

2 comments received. As for Q8 the processing sector agreed that permitted colouring agents should be specified in legislation, with guidance on what constitutes “adequate” staining. The production sector did not comment.

Government response:

As Commission Regulation 142/2011 (Annex VI, Chapter II, Section 1 paragraph 4) – implemented and enforced by the ABP(E)(E) Regulations - does not specify the “colouring agent” to be used by Collection Centres for staining Category 2 ABPs, the Government will similarly not specify particular dyes in amended legislation when it revokes the ABPI. We will review official guidance to ensure what is meant by “adequate staining” is comprehensive and clear.

Question 14 - Are there any other colouring agents (please specify) in addition to Black PN or Brilliant Black BN you would like to be made available? If yes, please comment on their costs relative to current practise and, if possible, on their safety (under Health and Safety legislation) and efficacy of staining compared to the currently permitted colouring agents Black PN or Brilliant Black BN.

Summary of comments:

No comments received.

Government response:

The Government will allow operators of Collection Centres to use other colouring agents for staining Category 2 ABPs provided they meet the criteria of Commission Regulation 142/2011 and will ensure appropriate guidance is available.

Responses on the provisions on segregation, storage and labelling of ABPs

Question 15 - Do you have any observations related to this revocation in particular relating to unforeseen consequences?

Summary of comments:

2 comments received. The rendering sector stressed that any revocations should not increase the risk to food or feedstuffs by reducing the requirement to stain Category 1 or 2 ABPs. The production sector did not comment.

Government response:

The Government will proceed with revoking regulation 9 of the ABPI as equivalent provisions are now laid down in EU legislation on ABP controls as enforced by the ABP(E)(E) regulations.

Question 16 - Do you have any further general comments related to this consultation, for example regarding other provisions of the ABPI not covered previously?

Summary of comments:

2 comments received. The rendering sector stressed that their representatives had actively encouraged compliance with the ABPI staining regulations as a matter of policy. In support of this FABRA had produced education modules to reinforce the “messages” of the regulations. The production sector did not comment.

Government response:

The Government welcomes initiatives by industry to encourage compliance with legislation.

The Way Forward

The Government will now proceed in accordance with its preferred Option 3 of the Impact Assessment that accompanied this consultation. To achieve this the Government will bring into force the Animal By-Product (Enforcement)(England) Regulations (ABP(E)(E))

2013 to replace the 2011 version and revoke the ABPI. This will remove duplicated provisions on staining in Collection Centres and on segregation, storage and identification that are now covered by EU legislation as implemented already by the ABP(E)(E) 2011. However, as the EU legislation permits but does not require staining in Food Business establishments regulation 6 of the ABPI will be updated and transferred to the ABP(E)(E) 2013 to ensure the same level of protection to human health. Overall, two pieces of legislation will be reduced to just one, with redundant terminology removed and greater streamlining of provisions which should be clearer for operators and enforcement bodies to follow.

The Government continues to maintain that the permanent staining of ABPs when properly done reduces the possibility of fraudulent diversion of unfit material into the human food chain by providing a clear and visible deterrent that is also relatively cheap and easy to carry out with minimal staff training. Although the EU Regulations do contain traceability requirements for the safe handling and disposal of ABPs we do not consider that these alone would protect adequately against deliberate diversion into the food chain and the potentially serious consequences for human health. Should the staining requirement be removed, levels of official supervision and enforcement would have to be increased in order to maintain the same level of protection to public health, which would be costly and resource intensive for Government.

However, the Government will introduce greater flexibility to the ABP (E)(E) 2013 for colouring agents that may be used for staining so that operators will have the opportunity to reduce their costs should cheaper suitable dyes become available in future.