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EFTA SURVEILLANCE  
AUTHORITY

**Final report**

**EFTA Surveillance Authority mission to**

**NORWAY**

**From 31 August to 4 September 2009**

**regarding the application of EEA legislation related to**

**control of TSEs and the total feed ban**

Please note that comments from the Norwegian competent authorities to factual errors in the draft report would have been included in *underlined italic print* in the body of the report. Comments and information on the corrective actions already taken and planned by the Norwegian competent authorities are included in Annex 4 and referred to in footnotes in *underlined italic print*.

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## 1 Introduction

The mission took place in Norway from 31 August to 4 September 2009. The mission team comprised two inspectors from the EFTA Surveillance Authority (the Authority).

The opening meeting was held with representatives of the Ministry of Agriculture and Food, the Ministry of Fisheries and Coastal Affairs and the Norwegian Food Safety Authority (NFSA), on Monday 31 August at Gardermoen in Norway. At the meeting, the mission team presented the legal basis and the objective and confirmed the planned itinerary of the mission. The competent authorities supplied additional information to that set out in the reply to the pre-mission questionnaire of the Authority.

Throughout the mission, a representative of the Section for Animal Health and Animal Health Personnel of the NFSA's head office accompanied the mission team. In addition, representatives of the relevant regional offices and district offices of the NFSA participated during meetings at the district offices and the visits to the different farms, establishments and the laboratory.

A final meeting was held at the head office of the NFSA in Oslo on 4 September 2009 at which the mission team presented its main findings and some preliminary conclusions from the mission.

The abbreviations used in the report are listed in Annex 1.

## 2 Objectives of the mission

The main objective of the mission was the following main European Economic Area (EEA) Acts and related EEA legislation:

- a) The Act referred to at Point 7.1.12 of Chapter I of Annex I to the EEA Agreement, *Regulation (EC) No 999/2001 of the European Parliament and of the Council of 22 May 2001 laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies*, as amended and as adapted to the EEA Agreement by the sectoral adaptations referred to in Annex I to that Agreement;
- b) The Act referred to at Point 31a of Chapter II of Annex I to the EEA Agreement *Council Directive 95/53/EC of 25 October 1995 fixing the principles governing the organization of official inspections in the field of animal nutrition*.

In particular, the mission team assessed the measures in place regarding the prohibition of feeding products of animal origin to farmed animals and exemptions to this ban as laid down in Article 7 and Annex IV to Regulation (EC) No 999/2001 (total feed ban). The assessment was carried out based on, and related to, the legislation referred to in Annex 2 to this document.

The meetings with the competent authorities and the visits to laboratories, holdings and establishments during the mission are listed in Table 1.

**Table 1: Competent authorities, laboratories, holdings and establishments visited during the mission**

Meetings/sites visited		Comments
<b>Competent authority</b>	4	Opening and final meeting and meetings at two district offices located in different regions. In addition, representatives from the relevant regional offices and district offices of the NFSA accompanied the mission team during the visits to the different sites.
<b>Laboratory involved in analysis of samples taken in the framework of feed ban controls</b>	1	The National Reference Laboratory (NRL) for analysis for constituents of animal origin in feedingstuffs.
<b>Feed mills</b>	2	Both feed mills were approved by the NFSA to produce feed for food producing animals. In addition one of the feed mills visited was registered by the NFSA for the production of pet food.
<b>Processing plant</b>	1	The processing plant distributed meat and bone meal (MBM) for the use as organic fertilizer.
<b>Farms</b>	4	Two of the holdings with home compounders kept ruminants, one kept pigs only. Two of the farms holding ruminants used MBM as organic fertilizer.

### 3 Legal basis for the mission

The legal basis for the mission was:

- a) Point 4 of the Introductory Part of Chapter I of Annex I to the Agreement on the European Economic Area (EEA Agreement);
- b) Article 1(e) of Protocol 1 to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice (Surveillance and Court Agreement);
- c) The Act referred to at Point 1.2.74 of Chapter I of Annex I to the EEA Agreement, *Commission Decision 98/139/EC of 4 February 1998 laying down certain detailed rules concerning on-the-spot checks carried out in the veterinary field by Commission experts in the Member States*;
- d) Article 21 of Regulation (EC) No 999/2001;
- e) Article 17a of Council Directive 95/53/EC.

Other legislation relevant for the mission is listed in Annex 2.

## 4 National legislation

According to information provided by the NFSA in its reply to the pre-mission questionnaire of the Authority, the legal basis for legislation in Norway related to the control of transmissible spongiform encephalopathies (TSEs) and the total feed ban is the Norwegian Food Production and Food Safety Act No. 124 of 19 December 2003 relating to food safety, plant and animal health (the Food Act).

The Norwegian Regulation of 30 March 2004 No. 595 on the prevention, control and eradication of transmissible spongiform encephalopathies (TSEs) incorporates, with the exception of Annex IV, Regulation (EC) No 999/2001 of the European Parliament and of the Council of 22 May 2001, laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies. Annex IV of Regulation (EC) No 999/2001 has been incorporated by the Norwegian Regulation of 29 March 2007 No. 511 on the ban on the use of animal protein in feedingstuffs for food-producing animals.

See Annex 3 for a list of the main Norwegian legislation implementing EEA Acts in the field of control of TSE and the total feed ban as included in the NFSA's reply to the pre-mission questionnaire.

## 5 Information on production and trade

According to information provided by the NFSA in its reply to the pre-mission questionnaire of the Authority, statistics from the Norwegian Agricultural Authority shows that fishmeal has not been imported or introduced for use in feed for farmed land animals since 2001. In 2008, the consumption of fishmeal and fish ensilage as feedingstuffs for farmed land animals were 17000 tonnes and 4500 tonnes respectively, all of Norwegian origin.

The following statistics were collected by the NFSA in 2009, both from RUBIN<sup>1</sup>, the International Fishmeal and Fish oil Organisation (IFFO)<sup>2</sup> and by telephone query in 2008. The amount of fishmeal produced in Norway in 2008 is given in Table 2.

**Table 2: Fishmeal produced in Norway in 2008 (numbers are given in tonnes)**

	<b>Fishmeal produced in Norway in 2008 (tonnes approximately)</b>				
<b>Origin</b>	<b>Cod</b>	<b>Pelagic</b>	<b>Aquaculture</b>	<b>Shrimp</b>	<b>Total</b>
<i>Fishmeal dry</i>	14500	153000		2500	170000
<i>Fishmeal ensilage</i>	21000	70000	158500		249500
<i>Hydrolysate/oil</i>			17500		17500
<b>Total</b>	35500	223000	176000	2500	<b>437000</b>

<sup>1</sup> RUBIN was founded by several Norwegian ministries, the Norwegian Research Council and the Norwegian fisheries and industry and is financed partly by the Ministry of Fisheries and Norwegian Fisheries-and Aquaculture Research Fund (FHF). The foundation works for increased and more profitable utilization of by-products from the fisheries and fish farming in Norway.

<sup>2</sup> IFFO is a global non-governmental, non-profit organisation which represents fishmeal and fish oil producers and related trades throughout the world.

In 2007, approximately 800000 tonnes, of a total amount of approximately 1840000 tonnes of pelagic fish caught in Norway, was used for production of fishmeal and fish oil. In addition, the Norwegian factories received approximately 150000 tonnes of cuttings for the production of fishmeal and fish oil. Table 3 gives some details of the production volume and trade in 2007.

**Table 3: Figures concerning production and trade of fishmeal/-oil in 2007 (numbers are given in tonnes)**

<b>Raw material - pelagic fish caught for fishmeal and fish oil production in Norway 2007</b>		
<b>Destination</b>	<b>Tonnes</b>	<b>Comments</b>
For inland use	660000	
For export	140000	EEA trade and export to third countries
<b>Total</b>	<b>800000</b>	
<b>Fish meal production in Norway 2007</b>		
<b>Destination</b>	<b>Tonnes</b>	<b>Comments</b>
For inland use	135000	
For export	35000	90% EEA trade, mainly Greece, UK and Denmark
<b>Total</b>	<b>170000</b>	

According to the information provided by the NFSA in its reply to the pre-mission questionnaire of the Authority, three consignments of fish meal of a total of approximately 11000 tonnes, were imported to Norway from third countries via the border inspection post (BIP) in Egersund Port in 2007, none in 2008.

## **6 Main findings**

### **6.1 Legislation in force - Transposition and application of relevant legislation<sup>3</sup>**

According to information provided by the NFSA in its reply to the pre-mission questionnaire of the Authority, Annex IV of Regulation (EC) No 999/2001 has been partially incorporated by the Norwegian Regulation of 29 March 2007 No. 511 on the ban on the use of animal protein in feedingstuffs for food-producing animals. Feeding fishmeal or feedingstuffs containing such products to farmed animals is exempted from the prohibition and can, according to the Norwegian Regulation, be used as feedingstuffs for all farmed animals, including ruminants.

Norway has incorporated Regulation (EC) No 1774/2002, laying down health rules concerning animal by-products not intended for human consumption, by Regulation of 27 October 2007 No. 1254. Furthermore, Norway has incorporated Regulation (EC) No 181/2006 as regards organic fertilisers and soil improvers other than manure, which implements Regulation (EC) No 1774/2002. Regulations (EC) No 1774/2002 and 181/2006 have been incorporated into the EEA Agreement but are not yet in force because Iceland notified constitutional requirements, which have not yet been lifted. Accordingly, the mission team observed that Norway did not apply the rules laid down in Directive

<sup>3</sup> See point 6.1 of Annex 4 for comments received from the Norwegian competent authorities.

90/667/EEC, laying down the veterinary rules for the disposal and processing of animal waste, for its placing on the market and for the prevention of pathogens in feedstuffs of animal or fish origin and amending Directive 90/425/EEC, which will in due course be replaced by Regulations (EC) No1774/2002 and 181/2006 but is still currently applicable in Norway under the EEA Agreement.

## **6.2 Competent authorities**

### **6.2.1 General information**

According to information provided by the NFSA in its reply to the pre-mission questionnaire of the Authority, the NFSA is the competent authority in the area of control of TSE and the total feed ban. The NFSA lies under the responsibility of three ministries: the Ministry of Agriculture and Food, the Ministry of Fisheries and Coastal affairs and the Ministry of Health and Care services. The Ministry of Agriculture and Food is administratively responsible for the NFSA.

The NFSA has three administrative levels: the head office, eight regional offices and 54 district offices. Following a reorganisation in the autumn of 2007, the head office of the NFSA has from 1 September 2007, been located in six different places: Oslo, Ås, Sandnes, Bergen, Sortland and Brumunddal.

The NFSA is authorised to carry out the inspections and veterinary controls within the scope of the Food Act, and adopt the necessary decisions (as individual decisions or as a Regulation) in order to carry out the provisions set out in the Food Act or issued pursuant thereto.

### **6.2.2 Organisation and legal powers<sup>4</sup>**

Representatives of the NFSA informed the mission team that official controls related to feedingstuffs are coordinated by the Department of Controls of the NFSA, Section for Animal Health and Animal Health Personnel (land animals) and Section for Fish and Seafood (fish). However, official controls of organic fertilizers were coordinated by the Section for Plant and Vegetables and legislation applicable to organic fertilizers was handled by the Department of Legislation of the NFSA, Section for Land Animal Health and Feed. Furthermore, official controls on the environmental effect of the use of MBM as organic fertilizer were, according to representatives of the NFSA, the responsibility of the relevant municipalities. Representatives of the NFSA stated in one of the meetings that, so far there has been no cooperation between the NFSA and the municipalities related to the controls on MBM as organic fertilizer.

According to information provided by the NFSA in its reply to the pre-mission questionnaire of the Authority, Articles 23 to 28 of the Food Act sets out sanctions/enforcement measures available to the competent authority. Furthermore, the head office of the NFSA has prepared guidelines regarding use of sanctions/enforcement measures.

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<sup>4</sup> *See point 6.2.2 of Annex 4 for comments received from the Norwegian competent authorities.*

### 6.2.3 Training of personnel

According to information provided by the NFSA in its reply to the pre-mission questionnaire of the Authority, training has been provided related to the TSE-legislation both in-house and externally arranged by the Veterinary College in Norway. The guidelines issued by the head office of the NFSA for both audits and inspections at feed mills mention the prohibition of feeding farmed animals with products of animal origin as one of the areas of risk in these establishments.

### 6.3 Official controls

According to information provided by the NFSA in its reply to the pre-mission questionnaire of the Authority, harmonisation of the controls related to TSE and the feed ban in Norway was ensured by the head office of the NFSA supplying those involved in controls with standard schemes, guidelines and other relevant information via the intranet of the NFSA and internet. Regular contact between the head office and the regional offices through network groups was also maintained.

The mission team observed that feed controls are organised differently in different regions of the NFSA. In one of the regions visited during the mission, one staff member was responsible for carrying out inspections and audits of all the feed establishments in the region. In one of the other regions visited, the different district offices were responsible for the controls to be carried out in the establishments located in their respective district.

The mission team observed that the competent authority had no overview of the type of derogated proteins used by individual feed mills in the production of feedingstuffs. Furthermore, the mission team observed that the NFSA did not have an updated register of home compounders using derogated proteins. Representatives of the NFSA stated during the mission that approved feed mills incorporating derogated proteins in feedingstuffs have to fulfil the requirements in accordance with the national legislation on the prohibition of using proteins of animal origin for production animals.<sup>5</sup>

The mission team observed that one of the feed mills visited was authorised to produce compound feed containing antibiotics and/or coccidiostats. The feed mill produced feed for poultry, pigs and ruminants. In addition, the feed mill was approved by the NFSA to receive processed animal protein for use in pet food. Raw material included fishmeal for the production of feed for farmed animals. Furthermore, fishmeal and MBM of both ruminant and non-ruminant origin was used in the production of pet food in the same establishment. There was no clear separation of the production lines for farmed and pet animals since silos storing raw material could pass on feedingstuffs to both lines. The representatives from the feed mill informed the mission team that only raw materials of non-animal origin were stored in the silos that could pass on feedingstuffs to both lines. Finally, in one section of the factory the transport of pet food was out in the open and the mission team also observed dust and left-overs around the scale used for weighing ingredients for the pet food production inside the establishment. Representatives of the district office of the NFSA stated that the production of pet food containing derogated proteins and feed for farmed animals in the same establishment was not prohibited by the national legislation.<sup>6</sup>

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<sup>5</sup> See point 6.3 of Annex 4 for comments received from the Norwegian competent authorities.

<sup>6</sup> See point 6.3 of Annex 4 for comments received from the Norwegian competent authorities.

The competent authority had carried out a risk assessment to determine which feed mills, compound feed and feedingstuffs should be inspected and sampled as part of the official monitoring programme for feed and feedingstuffs. According to information received from the NFSA in the opening meeting, the risks factors considered included the production volume and what species the feed mills produced feed for. Representatives of the NFSA stated in several of the meetings during the mission that the NFSA considered it unlikely that MBM was used in feed for farmed animals in Norway, and therefore it was not considered as high risk. The risk factors of main concern for the NFSA have been hygiene and the addition of coccidiostats in poultry and pig feed.

The approved feed mills were under regular supervision of the competent authority and the compound feed and the feedingstuffs were regularly sampled by the competent authority according to the official monitoring program for feed for land animals. In 2008, a total of 299 of these samples were analysed for the presence of MBM. Mainly samples from feedingstuffs for ruminants (140), poultry (47) and swine (46) were analysed. MBM was not detected in any of the samples in 2008, nor was it detected in samples in the previous 3 years. According to additional written information received from the Section for Fish and Seafood during the mission, a total of 353 samples were taken in feed mills producing feedingstuffs for fish in 2008. 132 of these samples, both from fish meal and compound feed, were analysed by microscopy without detecting presence of MBM.

Representatives of the NFSA stated in one of the meetings during the mission, that inspectors were instructed to take samples in cases where “suspicious” feed was observed during inspections at farm level. However, no routine sampling or inspections related to the feed ban were carried out on farms.

In 2009, following a communication of concern, samples were taken at a farm and consequently the presence of MBM was confirmed in feed for cattle. Representatives of the NFSA stated in the opening meeting that the finding had triggered further investigation, and the NFSA started looking into MBM used as organic fertilizer as a risk factor, and possible illegal use of such products as feed for farmed animals. The representatives of the NFSA informed the mission team in the opening meeting, that the NFSA had requested information on the recipients of MBM from processing plants delivering MBM to farms in order to get an overview of the use of MBM in Norway. A total of 307 deliveries were made in 2008 and approximately 140 deliveries to farms up until mid-March 2009. From the information provided by the processing plants and the Animal Holding Register of the NFSA, farms holding animals receiving MBM were identified. The NFSA initiated a mini-project covering one of its regions in which two district offices were to carry out inspections on 3 to 4 farms in each district.

### **6.3.1 Fishmeal<sup>7</sup>**

The mission team observed, and the representatives of the NFSA participating in the mission confirmed that Norway allows the use of fishmeal in feedingstuffs for all animals, including ruminants. The representatives of the NFSA informed the mission team that in practice only fishmeal of Norwegian origin was used in Norway, although fishmeal of other origin would be allowed to be used as long as it was produced in processing plants receiving raw material of fish origin only. According to information provided by the NFSA in its reply to the pre-mission questionnaire of the Authority, all consignments of fish meal imported from third countries via Norwegian border inspection posts are to be

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<sup>7</sup> See point 6.3.1 of Annex 4 for comments received from the Norwegian competent authorities.

sampled and analysed for the presence of MBM. All three consignments imported via a Norwegian BIP in 2007 were sampled and analysed according to Council Directive 2003/126/EC. None of the samples were positive for MBM.

A representative of the head office of the NFSA informed the mission team that fishmeal constitutes less than one percent (17000 tonnes related to a total production of 1.8 million tonnes) of the total amount of feed ingredients used in feed for farmed land animals in Norway. Most of the fishmeal was used for compound feed for poultry and swine, only a relatively small part was used for feed for ruminants. This was confirmed by the mission team at the feed mills visited during the mission.

The mission team observed that the feed mills visited were not authorised by the competent authority to incorporate fishmeal, or other derogated proteins, in compound feed. However, both feed mills visited during the mission produced compound feed containing fishmeal for farmed animals, including ruminants. Furthermore, the mission team observed that one of the feed mills visited was selling feed ingredients to end customers including farmers. Fishmeal was in that way sold to farmers and other customers without restrictions or any information on restrictions of the use of the fish meal. The representatives of the NFSA were not aware of this activity. Furthermore, the representatives of the NFSA stated that this was not of any major concern, this was in accordance with the Norwegian legislation. The mission team observed that the label and the commercial documents accompanying feed containing fishmeal did not indicate the words ‘contains fishmeal — shall not be fed to ruminants’.

One of the two feed mills visited during the mission produced feed for poultry, pigs, horses and ruminants. The mission team observed that there was no separation in the storage of raw materials, no separation in the production lines or in the storage of finished feed for ruminants from feed for other animals containing fishmeal. Furthermore, the same transport vehicles could be used for transport of feed in bulk containing fishmeal before transporting bulk feed for ruminants without prior cleaning in accordance with procedures approved by the competent authority.

The mission team observed at the pig farm visited that the farmer used both animal by-products from a dairy and complementary feedingstuffs, containing fishmeal and animal fat, in production of its own feed. Furthermore, the mission team observed that at least one of the cattle holdings visited kept complementary feedingstuffs containing fishmeal at the farm, and used this in the production of feed for the cattle. The mission team also observed that the pig farmer visited was not registered or authorised for the use of fish meal in feed for farmed animals.

### **6.3.2 Meat and bone meal<sup>8</sup>**

According to information provided by the NFSA in the opening meeting, MBM was used only to a limited extent prior to 2008. However, at the processing plant visited, statistics were presented showing that from three plants, close to 2500 tonnes of MBM were distributed in Norway in 2006 and approximately 4270 tonnes in 2007. Representatives of the NFSA stated in the opening meeting that an increase in the price of artificial fertilizers led to a higher interest in the use of MBM as fertilizer, followed by an increase in the sales of MBM. In 2008, approximately 12500 tonnes were distributed as organic fertilizer from the three plants, and in 2009 up until the time of the mission, the three plants had delivered

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<sup>8</sup> See point 6.3.2 of Annex 4 for comments received from the Norwegian competent authorities.

approximately 3100 tonnes and had received orders for another 11000 tonnes. Furthermore, the representatives of the processing plant visited during the mission stated that the plant had no restrictions on to whom MBM is sold or distributed to. The product was sold in bulk, in big bags or in small bags. Finally, there were no restrictions or requirements on the transporters and the transport vehicles used to transport MBM from the processing plant to the end user. Representatives of the NFSA informed the mission team that the NFSA does not keep an updated register of the end-users of MBM or the transporters of such products.

The mission team observed big bags of MBM in two of the farms visited, both holdings with ruminants. One of these farms used an on-farm mixer for the production of feed. The labelling on the big bags stated “not for human consumption” and indicated the name but no address of the processing plant. The mission team observed that commercial documents accompanying consignments of MBM from the processing plant to the recipient contained the wording “category 3 material, not for human consumption in accordance with Regulation (EC) No 1774/2002”. The processing plant also distributed a separate document to the customers, describing the product, including information on the prohibition of using the product as feed for farmed animals and that it should not be applied directly onto land as such. All four of the visited farms had been inspected by the NFSA, however, three of the farmers stated that the inspections had not covered the feed ban. One of the visited farms had been inspected as part of the mini-project initiated by NFSA in spring 2009 (see last paragraph under Point 6.3). The inspection had covered issues such as the application/use of MBM, the time of application and the time period between application and allowing animals onto the field where it was applied and the storage conditions of MBM. In one of the other farms visited, big bags of MBM were stored together with compound feed for cattle. The next door building was used for rearing of calves for beef production in wintertime. The representatives of the relevant district office of the NFSA were not aware of the storage conditions or that the farm had received MBM.

In one of the regions visited, representatives of the regional office and the district office stated that they had not received any information from the head office related to distribution of MBM in their region. Furthermore, representatives of the NFSA stated that it was more likely that MBM was distributed to farms closer to the processing plants producing such products. However, the distribution lists from the processing plants show that customers located in all the eight regions of the NFSA ordered and received MBM in 2008 and 2009.

### **6.3.3 Other derogated proteins<sup>9</sup>**

According to information provided by the NFSA in its reply to the pre-mission questionnaire of the Authority, a system for the approval of establishments producing feedingstuffs in accordance with the Norwegian Regulation 2007-03-29 No. 511 on prohibition of the use of animal proteins in feedingstuffs for food producing animals, implementing Annex IV of Regulation (EC) No 999/2001, was not yet established in Norway. In consequence, blood from slaughtered animals of different species in Norway was not separated and was sent from slaughterhouses to destruction plants.

Furthermore, according to information provided by the NFSA in its reply to the pre-mission questionnaire of the Authority, certain derogated proteins (dicalcium and

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<sup>9</sup> See point 6.3.3 of Annex 4 for comments received from the Norwegian competent authorities.

tricalcium phosphate, blood meal and blood products) were, according to statements from the producers, not used in land animal feed. Throughout the mission, representatives of the NFSA stated that such derogated proteins were not used for animal feed in Norway. A representative of the Section for Fish and Seafood of the head office of the NFSA, stated that blood meal was not used by the industry to produce fish feed. However, statistics provided by the NFSA during the mission showed that in 2008 and up to the mission in 2009, a total of approximately 480 tonnes of blood meal and blood products were introduced to Norway from EEA States and another approximately two tonnes were imported from third countries. The list of importers included names of pet food producers, fish feed industry and included at least one name of a feed mill approved for the production of feedingstuffs for farmed animals.

#### 6.4 Laboratory services<sup>10</sup>

The mission team visited the national reference laboratory (NRL) for analysis for constituents of animal origin in feedingstuffs. According to information provided by the NFSA in its reply to the pre-mission questionnaire of the Authority, LabNett AS is authorised as the NRL for additives (land animals), and for constituents of animal origin (land animals and fish). LabNett AS is a private accredited laboratory, authorised by the NFSA for official testing, using the Official Method of Analyses given in Commission Regulation (EC) No 152/2009 of 27 January 2009 laying down the methods of sampling and analysis for the official control of feed (as in Commission Directive 2003/126/EC of 23 December 2003 on the analytical method for the determination of constituents of animal origin for the official control of feedingstuffs). The staff members have several years of knowledge and experience of feed analysis, and as part of the quality assurance program the laboratory regularly participates in international collaborative studies. The laboratory performs analysis of check samples sent by *e.g.* the community reference laboratory (CRL).

According to additional information received from representatives of the NFSA at the opening meeting, LabNett AS is the only laboratory in Norway performing microscopic analysis for the detection, identification or estimation of constituents of animal origin in feedingstuffs. Furthermore, representatives of the NFSA stated in the opening meeting that the criteria for authorising laboratories for official controls included that the methods used in the laboratory were accredited and that the laboratory should be able to supply the NFSA with scientifically based and sound advice in its field of expertise.

During the visit, it was confirmed by a representative from the laboratory that it was accredited according to ISO 17025. However, the laboratory was using, but not accredited for, the official method for the microscopic detection, identification or estimation of constituents of animal origin in feedingstuffs. According to representatives of the NRL, the laboratory had participated in proficiency tests each year since the feed ban was enforced, first organised by the Danish Plant Health Directorate and in 2008 organised by the CRL in the Netherlands. However, the responsible for the laboratory informed the mission team that the NRL had not participated in any proficiency tests in 2009, and that the contact with the CRL was not optimal. The NRL had not been invited to participate in any working groups nor had it received any information from the CRL up until the time of the mission in 2009. The mission team observed that the laboratory had the results from the proficiency tests available, and that the performance of the laboratory was satisfactory.

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<sup>10</sup> See point 6.4 of Annex 4 for comments received from the Norwegian competent authorities.

The number of samples undergoing microscopic detection, identification or estimation of constituents of animal origin in feedingstuffs constituted only a small part of the total work at the laboratory. 299 samples were analysed for the presence of constituents of animal origin in 2008, a decrease from approximately 450 samples annually the preceding years. According to the sampling plan for 2009, 75 samples from compound feed for ruminants, 40 from compound feed for pigs and 35 from compound feed for poultry, were foreseen to be analysed. No samples were planned at farm level unless there was a suspicion of illegal use of prohibited animal products in feeding farmed animals. 40 % of imported consignments of raw material of vegetable origin were planned to be sampled and a total of 10 samples from premixes. The time from receiving sample until result could be presented was, according to a representative of the laboratory, approximately 20 days. However, in cases of suspicion, the result was received within 4-5 days. The mission team noted that the analysis reports only stated whether MBM was detected or not in the sample. The mission team noted that it was the NRL's responsibility to select which of the samples received from the NFSA should undergo the microscopic analysis for the presence of constituents of animal origin. According to a representative of the laboratory, the selection is carried out randomly, but that the system also ensured that samples from small feed mills were checked for animal constituents.

Representatives of the NFSA stated in the opening meeting that the NFSA had not inspected the laboratory to verify the competence of it by *e.g.* evaluating the results of ring trials. This was confirmed to the mission team during the visit by a representative of the laboratory. According to additional information received during the mission, NFSA had interpreted the requirements for authorisation of laboratories for official controls in such a way that the competent authority should designate the laboratories and that an inspection by the NFSA was not necessary as long as the laboratory was accredited.

## **7 Final meeting**

A final meeting was held on 4 September 2009 at the head office of the NFSA in Oslo with representatives from the Ministry of Food and Agriculture, the Ministry of Fisheries and Coastal Affairs and the NFSA. At this meeting, the mission team presented its main findings and some preliminary conclusions of the mission.

At the meeting the mission team also explained that, based on a more detailed assessment of the information received during the mission, additional conclusions could be included in the report.

The Norwegian representatives agreed to the observations and preliminary conclusions presented.

## **8 Conclusions**

At the time of the mission, contrary to the EEA Agreement, Norway allowed the use of fishmeal as feedingstuffs for ruminants. Furthermore, inspections by the competent authority covering the illegal use of products, such as meat and bone meal, in feeding of animals, were limited. Based upon these observations the mission team concludes that, at the time of the mission, the effectiveness of the official controls at every step of the production chain related to the total feed ban was not optimal.

## **8.1 Legislation in force – Transposition and application of relevant legislation**

### 8.1.1

Full compliance with Regulation (EC) No 999/2001 could not be ensured as Regulation (EC) No 1292/2005, amending Regulation (EC) No 999/2001, has been only partially incorporated by Norway.

### 8.1.2

Compliance with Council Directive 90/667/EEC could not be ensured since Norway has incorporated regulation (EC) No 1774/2002 and repealed its national legislation which implemented Directive 90/677/EEC.

## **8.2 Official controls**

### 8.2.1

Compliance with Article 7(1) and Point I.(b) of Annex IV of Regulation (EC) No 999/2001 could not be ensured as fishmeal, and feedingstuffs containing such proteins, was fed to ruminants.

### 8.2.2

Full compliance with Point II.B(c) of Annex IV to Regulation (EC) No 999/2001 could not be ensured as feed mills producing feedingstuffs containing fishmeal were not authorised for this purpose by the competent authority.

### 8.2.3

Full compliance with Point II.B(c)(i) of Annex IV to Regulation (EC) No 999/2001 could not be ensured as a home compounder producing feedingstuffs containing fishmeal for use on its holding was not authorised or registered by the competent authority to do so. Furthermore, home compounders producing feedingstuffs containing fishmeal were also found in holdings keeping only ruminants.

### 8.2.4

Full compliance with Point II.B(c)(ii) of Annex IV to Regulation (EC) No 999/2001 could not be ensured as the production of feedingstuffs for ruminants in establishments which also produced feedingstuffs containing fishmeal for other animal species was not authorised by the competent authority subject to the conditions listed under that point.

### 8.2.5

Full compliance with Point II.B(d) of Annex IV to Regulation (EC) No 999/2001 could not be ensured as the label and accompanying document of feedingstuffs containing fishmeal did not clearly indicate the words “contains fishmeal – shall not be fed to ruminants”.

### 8.2.6

Full compliance with Point II.B(e) of Annex IV to Regulation (EC) No 999/2001 could not be ensured as bulk feedingstuffs containing fishmeal could be transported in vehicles which could also transport feedingstuffs for ruminants without thorough cleaning in accordance with a procedure approved by the competent authority to avoid cross contamination.

### 8.2.7

Full compliance with Point II.B(f) of Annex IV to Regulation (EC) No 999/2001 could not be ensured as feedingstuffs containing fishmeal were kept and used on farms keeping ruminants without a permit from the competent authority.

### 8.2.8

Full compliance with Point II.D, III.C(b) and III.C(c) of Annex IV to Regulation (EC) No 999/2001 could not be ensured as the competent authority stated that blood meal and blood products were not used in feed for farmed animals and fish and therefore no controls were carried out related to these products. However, according to statistics from the Norwegian customs, blood meal and blood products were imported to Norway by the feed industry producing feed for farmed animals and fish.

### 8.2.9

Full compliance with Point III.C(a) of Annex IV to Regulation (EC) No 999/2001 could not be ensured as there were no controls with regards to meat and bone meal being transported and stored in dedicated facilities. In addition, the competent authority did not ensure that the stores and vehicles used to transport such products were only used for other purposes following cleaning, and after having been inspected by the competent authority.

### 8.2.10

Full compliance with Point III.D of Annex IV to Regulation (EC) No 999/2001 could not be ensured since pet food, which contained processed animal proteins other than fishmeal, was manufactured in an establishment which at the same time produced feedingstuffs for farmed animals, including ruminants.

### 8.2.11

Full compliance with Point III.F of Annex IV to Regulation (EC) No 999/2001 and Council Directive 95/53/EC could not be ensured as the competent authority did not carry out checks, including tests on feedingstuffs, throughout the production and distribution chain.

### 8.2.12

Full compliance with Article 4(4) of Council Directive 95/53/EC could not be ensured as, *inter alia*, inspections covering the illegal use of products, such as MBM, in feeding of animals, were very limited

## 8.3 Laboratory services

### 8.3.1

Full compliance with Point III.F of Annex IV to Regulation (EC) No 999/2001 could not be ensured as the competent authority did not verify on a regular basis the competence of laboratories carrying out analyses for such official controls, in particular by evaluating the results of ring trials.

### 8.3.2

Full compliance with Point 8 of the Annex to Commission Directive 2003/126/EC could not be ensured as the results of the examination for content for MBM were reported by the NRL only by using the phrase “not detected”.

## **9 Recommendations to the Norwegian competent authority**

Norway should make sure that official control systems are implemented throughout the production chain. The possible illegal use of prohibited products of animal origin for feeding farmed animals should be included in these controls.

Norway should notify the Authority, within two months of receiving the final report by way of written evidence, of the corrective actions taken and a plan for corrective measures and actions, including a timetable for completion of measures still outstanding, relevant to all the conclusions under Chapter 8 of this report. The Authority should also be kept informed of the completion of the measures included in the timetable.

### Annex 1 - List of abbreviations and terms used in the report

The Authority	EFTA Surveillance Authority
EC	European Community
EEA	European Economic Area
EEA Agreement	Agreement on the European Economic Area
Surveillance and Court Agreement	Agreement between the EEA EFTA States on the Establishment of a Surveillance Authority and a Court of Justice
NFSA	Norwegian Food Safety Authority
Food Act	Norwegian Food Production and Food Safety Act No. 124 of 19 December 2003 relating to food safety, plant and animal health
TSE	Transmissible spongiform encephalopathies
Total feed ban	The prohibition of feeding products of animal origin to farmed animals and exemptions applicable to this ban as laid down in Article 7 and Annex IV of Regulation (EC) No 999/2001
NRL	National Reference Laboratory
CRL	Community Reference Laboratory
MBM	Meat and bone meal
Derogated proteins	<p>Processed animal proteins for which there are derogations from the feed ban under certain circumstances, as laid down in Annex IV to Regulation (EC) No 999/2001. These include:</p> <ul style="list-style-type: none"> <li>- milk, milk-based products and colostrum;</li> <li>- eggs and egg products;</li> <li>- gelatine derived from non-ruminants;</li> <li>- hydrolysed proteins derived from parts of non-ruminants and from ruminant hides and skins;</li> <li>- fishmeal;</li> <li>- dicalcium phosphate and tricalcium phosphate;</li> <li>- blood products and blood meal</li> </ul>
BIP	Border inspection post

## Annex 2 - Relevant legislation

The main EEA Acts regarding the control of TSEs and the total feed ban relevant for this mission are:

- a) The Act referred to at Point 7.1.12 of Chapter I of Annex I to the EEA Agreement, *Regulation (EC) No 999/2001 of the European Parliament and of the Council of 22 May 2001 laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies*, as amended and as adapted to the EEA Agreement by the sectoral adaptations referred to in Annex I to that Agreement.
- b) The Act referred to at Point 31a of Chapter II of Annex I to the EEA Agreement *Council Directive 95/53/EC of 25 October 1995 fixing the principles governing the organization of official inspections in the field of animal nutrition* as amended.
- c) The Act referred to at Point 7.1.9 of Chapter I of Annex I to the EEA Agreement, *Council Directive 90/667/EEC of 27 November 1990 laying down the veterinary rules for the disposal and processing of animal waste, for its placing on the market and for the prevention of pathogens in feedstuffs of animal or fish origin and amending Directive 90/425/EEC* as amended and as adapted to the EEA Agreement by the sectoral adaptations referred to in Annex I to that Agreement.
- d) The Act referred to at Point 7.2.10 of Chapter I of Annex I to the EEA Agreement, *Commission Decision 94/382/EC of 27 June 1994 on the approval of alternative heat treatment systems for processing animal waste of ruminant origin, with a view to the inactivation of spongiform encephalopathy agents*, as amended.
- e) The Act referred to at Point 7.2.12 of Chapter I of Annex I to the EEA Agreement, *Commission Decision 96/449/EC of 18 July 1996 on the approval of alternative heat treatment systems for processing animal waste with a view to the inactivation of spongiform encephalopathy agents*.
- f) The Act referred to at Point 7.2.17 of Chapter I of Annex I to the EEA Agreement, *Commission Regulation (EC) No 1326/2001 of 29 June 2001 laying down transitional measures to permit the changeover to the Regulation of the European Parliament and of the Council (EC) No 999/2001 laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies, and amending Annexes VII and XI to that Regulation*, as amended.
- g) The Act referred to at Point 7.2.18 of Chapter I of Annex I to the EEA Agreement, *Commission Decision 2002/1003/EC of 18 December 2002 laying down minimum requirements for a survey of prion protein genotypes of sheep breeds*.
- h) The Act referred to at Point 7.2.20 of Chapter I of Annex I to the EEA Agreement, *Commission Decision 2003/100/EC of 13 February 2003 laying down minimum requirements for the establishment of breeding programmes for resistance to transmissible spongiform encephalopathies in sheep*.

- i) The Act referred to at Point 7.2.27 of Chapter I of Annex I to the EEA Agreement, *Commission Regulation (EC) No 546/2006 of 31 March 2006 implementing Regulation (EC) No 999/2001 of the European Parliament and of the Council as regards national scrapie control programmes and additional guarantees and derogating from certain requirements of Decision 2003/100/EC and repealing Regulation (EC) No 1874/2003.*
- j) The Act referred to at Point 31b of Chapter II of annex I to the EEA Agreement, *Council Directive 95/69/EC of 22 December 1995 laying down the conditions and arrangements for approving and registering certain establishments and intermediaries operating in the animal feed sector and amending Directives 70/524/EEC, 74/63/EEC, 79/373/EEC and 82/471/EEC as amended.*
- k) The Act referred to at Point 31i of Chapter II of Annex I to the EEA Agreement *Commission Directive 2003/126/EC of 23 December 2003 on the analytical method for the determination of constituents of animal origin for the official control of feedingstuffs.*

### **Annex 3 - Relevant Norwegian legislation as stated by the competent authority**

1. The Food Production and Food Safety Act No 124 of 19 December 2003 relating to food safety and plant and animal health (*Lov av 19. desember 2003 nr. 124 om matproduksjon og mattrygghet mv.*)
2. Regulation of 7 November 2002 No 1290 on feedingstuffs (*Forskrift av 7 November 2002 nr. 1290 om fôrvarer*).
3. Regulation of 30 March 2004 No 595 on the prevention, control and eradication of transmissible spongiform encephalopathies (TSE) (*Forskrift av 30 mars 2004 nr. 595 om forebygging av, kontroll med og utryddelse av overførbare spongiforme encefalopatier (TSE)*)
4. Regulation of 29 March 2007 No 511 on the ban on the use of animal protein in feedingstuffs for food-producing animals (*Forskrift av 29 Mars 2007 nr. 511 om forbud mot bruk av animalske proteiner i fôr til produksjonsdyr*)
5. Regulation of 27 October 2007 No 1254 concerning animal by-products not intended for human consumption (*Forskrift av 27 oktober 2007 nr. 1254 om animalske biprodukter som ikke er beregnet på konsum*)



**ROYAL NORWEGIAN  
MINISTRY OF AGRICULTURE AND FOOD**

EFTA Surveillance Authority  
Rue Belliard 35  
B-1040 Brussels  
Belgium

Your ref  
Case No: 66592

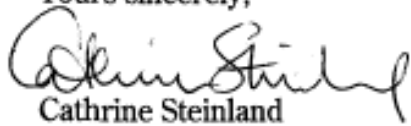
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200900837-/VLA - 27

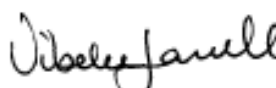
Date  
12.11.2009

**ESA mission to Norway 31 August to 4 September regarding control of TSE  
and the total feed ban**

Please find enclosed a letter from the Norwegian Food Safety Authority regarding the Draft report for EFTA Surveillance Authority's mission to Norway from 31 August to 4 September 2009, regarding the application of EEA legislation related to the control of TSEs and the total feed ban.

Yours sincerely,

  
Cathrine Steinland  
Acting Deputy Director General

  
Vibeke Larvoll  
Adviser

EFTA Surveillance Authority  
Rue Belliard 35  
B-1040 Brussels  
Belgia

Your ref: 66592  
Our ref: 09/96795  
Date: 12.11.2009  
Org.nr: 985 399 077

Att.

Statens tilsyn for planter, fisk, dyr og næringsmidler



## **ESA MISSION TO NORWAY FROM 31. AUG. TO 4. SEPT. REGARDING APPLICATION OF EEA LEGISLATION RELATED TO CONTROL OF TSE AND THE TOTAL FEED BAN**

Dear Sir/Madam,

Ref: your letter from October 5, 2009 and the draft report from the above mentioned mission.

Comments to the various points:

6.1

Use of fishmeal in compound feed for all types of farmed land animals:

The fishmeal factories only produce fishmeal / fish products. No other raw materials are used other than fish. Transport of fishmeal is according to regulations to avoid possible cross contamination.

Norwegian feed factories are only using Norwegian-produced fish meal, as an extra precaution. Please see attached documentation (in Norwegian).

BSE has never been found in Norway.

Directive 90/667/EEC is not applied in Norway and is replaced by Regulation (EC) no. 1774/2002 in the Norwegian legislation. This anomaly, i.e. the implementation of a regulation before the entry into force in the EEA-Agreement, has arisen due to unexpected delays in the EEA system. Regulation (EC) no. 1774/2002 is nevertheless more in line with the TSE-regulation than Directive 90/667/EEC, and ensures a better framework for the control of feedingstuffs and animal by-products.

6.2.2

Please note that the NFSA, Department of Legislation, Section for Land Animal Health and Feed is responsible for the legal implementation of all EEA acquis in Norwegian legislation/regulations regarding feedings stuffs, TSE and animal by-products. The handling, interpretation and control of the aforementioned rules are the responsibility of the NFSA, Department of Controls.

Considering that the inspection concerned the application of the TSE-rules in Norway, we are of the opinion that the comment on official controls on the environmental effects and cooperation with municipalities, is not within the scope of this inspection.

### 6.3

Third paragraph:

Our lack of overview concerning derogated proteins used in the feed mills: Norwegian regulation allows for use of fishmeal in compound feed for all types of farmed land animals. Consequently, there is no need for a detailed overview. Regarding other derogated proteins, please see our comment regarding point 6.3.3.

Home compounding is not very common, and there is no need for authorisation by NFSA for home compounding as such. If certain additives and or premixes are used, or fishmeal is used in the compound, authorisation is needed.

Fourth paragraph:

Regarding the only premises on which feed for pets and farmed land animals is produced near to each other: We emphasise the fact that only raw materials of plant origin are stored / transported in common silos / pipes as supply to the production, not raw material of animal origin, or ready-produced compound feed. Raw-material of animal origin and ready-produced compound feed are completely separated.

Poultry meal is the main ingredient used in the production of pet feed. Swine meal is also used to some extent. However, **no meal from ruminants is used in the production of pet feed**. On this point, the observation from ESA is incorrect. This can be documented, if needed. If you want this kind of documentation, please notify us, and we will provide it.

#### 6.3.1

Fishmeal:

The regulations in Norway state that feed factories that use fishmeal in production, shall be registered or approved. We define this to be in line with the general demands for production of feed, not any special authorisation.

Use of fishmeal is allowed in compound feed for ruminants according to Norwegian regulations. Sale of fishmeal to farmers is also legal. Possible mixing of fishmeal in compound feed demands registration / approval, but not feeding as such, according to Norwegian regulations.

Feed for ruminants is produced with the same raw-materials as for other food-producing farmed land animals. Thus, there is no need for separate lines and transport systems / lorries.

Use of complementary feed with fish meal, possibly also with fat of animal origin, regardless of animal species, is allowed according to Norwegian regulations, and will not require any special obligation for registration / approval. Norwegian regulations do not have any provision for marking /branding of feed with fishmeal.

#### 6.3.2

The NFSA has taken ESA's concerns seriously regarding the control of MBM distribution and use as organic fertilizer. It should be noted that EU-member states have all regulated this area differently, in accordance with Regulation (EC) no. 181/2006. The NFSA has recently sent a draft regulation on a hearing, see

[http://www.mattilsynet.no/regelverksutvikling/horinger/2009/h\\_ring\\_om\\_endrede\\_regler\\_om\\_bruk\\_av\\_kj\\_tteinmel\\_som\\_jordforbedringsmiddel\\_74233](http://www.mattilsynet.no/regelverksutvikling/horinger/2009/h_ring_om_endrede_regler_om_bruk_av_kj_tteinmel_som_jordforbedringsmiddel_74233)

and enclosure.

The revision entails that farmers holding ruminants are no longer allowed to buy or store MBM that is not already mixed with a component that makes it unusable as a feeding stuff. In addition, sellers of such unmixed MBM will be obliged to send a list of buyers of MBM to the NFSA quarterly.

#### 6.3.3

Comments to the statistics on blood meal / blood products

Use of blood meal / blood products is permitted for non-producing animals i.e

As for fish feed producers, their information is that the quantities imported (altogether 2022 kg from EEA and 380 kg from 3. countries over 20 months), are used for research and development. The one incident of a feed factory for farmed land animals being on the list of importers of blood meal / blood products refers to import of a small amount of dried blood plasma from swine. It is produced according to 1774 / 2002, and used in production of experimental feed for piglets.

6.4

The private laboratory, LabNett AS, Kvithamar, NO-7500 Stjørdal, is accredited according to EN 17025 by the Norwegian Accreditation, but the method for analysing animal proteins in feed is not accredited as such.

As LabNett Kvithamar is the only laboratory in Norway using the microscopy method recommended by CRL, the laboratory is authorised by Norwegian Food Safety Authority as NRL for Animal proteins in feed.

The laboratory has participated in proficiency tests for detection of animal proteins in feed in 2003, 2004, 2005, 2006, 2007 and 2008, but not yet in 2009.

LabNett is not aware that a proficiency test has been arranged this year, and the laboratory will participate as soon as they get an opportunity.

Yours Sincerely

Kristina Landsverk  
Director  
Department of Control