

Final report

EFTA Surveillance Authority mission to

NORWAY

6 to 17 September 2010

concerning animal by-products not intended for human consumption

Please note that comments from the Norwegian competent authorities to factual errors in the draft report 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 5 and referred to in footnotes in *underlined italic print*.

Executive Summary

This report describes the outcome of a mission carried out by the EFTA Surveillance Authority in Norway from 6 to 17 September 2010.

The objective of the mission was to evaluate and to verify that the official control in Norway, related to animal by-products not intended for human consumption, was carried out in compliance with the relevant European Economic Area legislation.

The mission team found that Norway cannot ensure that all animal by-products are handled and processed in line with the legal requirements. In particular the fact that processing plants have been approved although processing parameters do not comply with any approved method (or been otherwise authorised by the competent authority) is of concern. Furthermore, traceability of animal by-products was limited.

The mission team observed improvement in the official controls related to the prohibition concerning proteins of animal origin for animal feeding (feed ban) and the use of meat- and bone meal as organic fertilizers compared to the observations made during a mission carried out by the EFTA Surveillance Authority on the feed ban last year.

Although not included in the scope of this mission, the mission team also pointed out to the competent authority that the hygiene conditions in two of the visited establishments producing food and feed were not in line with the requirements in the relevant legislation.

The report includes a number of recommendations addressed to the competent authority aimed at rectifying the identified shortcomings or deficiencies and enhancing the control system in place.

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1 Introduction

The mission took place in Norway from 6 to 17 September 2010 as part of the EFTA Surveillance Authority's (the Authority) planned mission programme. The mission team comprised two inspectors from the EFTA Surveillance Authority.

The opening meeting was held with representatives of the Norwegian Food Safety Authority (NFSA) on Monday 6 September 2010 at the head office of the NFSA in Sandnes. The meeting was arranged as a video conference, allowing the head office of the NFSA located in Bergen and Oslo and the Ministry of Fisheries and Coastal Affairs to participate.

At the meeting, the mission team confirmed the objectives and the itinerary of the mission. The Norwegian representatives provided additional information to that set out in the reply to the Authority's pre-mission questionnaire.

Throughout the mission, the mission team was accompanied by representatives from the NFSA's head office together with representatives of the relevant regional and district offices. The itinerary included visits to establishments handling, storing and/or processing animal by-products not intended for human consumption (ABPs) and to food and feed business operators where ABPs originate.

A final meeting was held with representatives of the NFSA, the Norwegian Climate and Pollution Agency (KLIF), the Ministry of Fisheries and Coastal Affairs and the Ministry of Agriculture and Food in Oslo on Friday 17 September 2010.

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

2 Scope and objectives of the mission

The following main European Economic Area (EEA) Acts and related EEA legislation fall within the scope of the mission:

- a) The Act referred to at Point 1.1.11 of Chapter I of Annex I to the Agreement on the European Economic Area (EEA Agreement), *Regulation (EC) No 882/2004 of the European Parliament and of the Council of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules*, as corrected and as amended;
- b) The Act referred to at Point 7.1.9b of Chapter I of Annex I to the EEA Agreement, *Regulation (EC) No 1774/2002 of the European Parliament and of the Council of 3 October 2002 laying down health rules concerning animal by-products not intended for human consumption*, as corrected and as amended.

The objective of the mission was to assess the Norwegian competent authorities' application of the abovementioned legislation and additional legislation referred to in Annex 2 to this document. A particular focus was put on the official controls and follow-up of non-conformities by the competent authorities and the verification by the competent authority of the correct flow, handling and final destination of certain ABPs.

Other issues observed on-the-spot as not complying with EEA legislation applicable to Norway was also addressed during the mission and in this report, see Chapter 5.6.

The meetings with the competent authorities and the visits during the mission are listed in Table 1.

Table 1: Competent authorities and sites visited during the mission¹

Meetings/sites visited		Comments
Competent authority	4	Opening and final meeting and meetings at two district offices. 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.
Incineration plant	1	Approved according to Directive 2000/76/EC on the incineration of waste. <i>In addition to representatives of the NFSA, a representative of the county governor accompanied the mission team during this visit.</i>
Landfill	1	Approved according to Directive 1999/31/EC on the landfill of waste.
Biogas and composting plants	2	One approved biogas plant and one approved for both biogas and composting in addition to category 3 processing plant. <i>In addition to representatives of the NFSA, a representative of the county governors accompanied the mission team during these visits.</i>
Food business operators where ABPs originate	5	Two dairy plants, one of which also produced feed. Three slaughterhouses, including a field slaughter for reindeer with a permit from the county governor and the NFSA for a depot at the site for disposal of ABPs. One cutting plant for reindeer and wild game.
Collection centre	1	Collection centre for category 2 material for feeding fur animals.
Processing plants for ABPs	4	One category 1 processing plant, one processing plant for category 2 material of fish origin also approved as intermediate storage and storage plant for category 2 and 3 material, two category 3 processing plants (one for ABPs of fish origin only).
Farms	2	Animal holdings using meat and bone meal (MBM) as organic fertilizer.

3 Legal basis for the mission

The legal basis for the mission was:

- a) Point 1(e) of Protocol 1 to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice;
- b) Point 4 of the Introductory Part of Chapter I of Annex I to the EEA Agreement;
- c) Article 45 of *Regulation (EC) No 882/2004 of the European Parliament and of the Council of 29 April 2004 on the official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules*, as corrected and amended;

¹ See Point 2 of Annex 4 for comments from the NFSA.

- d) Article 27 of *Commission Regulation (EC) No 1774/2002 of the European Parliament and of the Council of 3 October 2002 laying down health rules concerning animal by-products not intended for human consumption*, as corrected and as amended;
- e) Article 21 of *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*;
- f) The Act referred to at point 1.2.74 of Chapter I to 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*.

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

4 Background

4.1 Previous mission

Article 7 and Annex IV of Regulation (EC) No 999/2001 lays down the prohibition of feeding products of animal origin to farmed animals, total feed ban, and exemptions applicable to this ban.

The Authority carried out a mission to Norway from 31 August to 4 September 2009 regarding the application of EEA legislation related to control of transmissible spongiform encephalopathies (TSEs) and the total feed ban. The mission team noted during that mission that contrary to the EEA Agreement, Norway allowed the use of fishmeal as feedingstuffs for ruminants. Furthermore, official controls carried out by the competent authority related to illegal use of certain ABPs were limited, e.g. inspections on animal holdings where meat and bone meal was used as organic fertilizer. Following the mission, Norway notified several corrective actions, including the implementation of the total feed ban in accordance with the requirements laid down in EEA legislation.

The mission team also noted during that mission that fishmeal was sold to farms without restrictions or any information on restrictions of the use of such feeding stuffs. Finally, the required wording “contains fishmeal – must not be fed to ruminants” was not included in the labelling of feed and feedingstuffs or in the accompanying documents.

The final report of the mission to Norway on TSEs and the total feed ban is available on the Authority’s website: <http://www.eftasurv.int>.

4.2 Information on trade of animal by-products and processed products thereof

According to information provided by the NFSA in its reply to the pre-mission questionnaire of the Authority, statistics related to trade, exports and imports of animal by-products in Norway have been provided by different organisations and public bodies (e.g. KLIF, Statistics Norway, RUBIN and the NFSA. For some key figures on trade, import and export of ABPs and processed products thereof, provided by the NFSA, please see Annex 3.

5 Findings and conclusions

5.1 National legislation

Legal requirements:

Article 7 of the EEA Agreement requires acts referred to or contained in the Annexes to the Agreement to be made part of the Norwegian internal legal order.

Findings:

According to information provided by the NFSA in its reply to the pre-mission questionnaire of the Authority, the Act No. 124 of 19 December 2003 relating to food safety and plant and animal health, (the Food Act), provides the legal basis for regulations in the relevant fields, including animal by-products not intended for human consumption. Power to issue regulations within closer defined areas within the scope of the Food Act is delegated to the Ministry of Agriculture and Food, the Ministry of Health and Care Services and the Ministry of Fisheries and Coastal Affairs according to the Norwegian Regulation of 19 December 2003 No.1790. The authority to issue regulations for most of the areas in the Food Act is subsequently delegated to the NFSA in the Norwegian Regulation of 5 May 2004 No. 884.

According to information provided by the NFSA in its reply to the pre-mission questionnaire of the Authority, Norway incorporated Regulation (EC) No 1774/2002 into its internal legal order through the adoption of Regulation No. 1254 of 27 October 2007 on animal by-products not intended for human consumption. The Norwegian Regulation includes provisions for the approval of biogas and composting plants in accordance with Regulations (EC) No 809/2003 and 810/2003. However, Regulation (EC) No 809/2003 and 810/2003, as amended, were applicable for a fixed period which ended on 31 December 2006. A representative of the NFSA informed the mission team during the final meeting that these transitional measures would be revoked in the near future.

According to information provided by the NFSA in its reply to the pre-mission questionnaire of the Authority, transitional measures and derogations related to animal by-products and the handling and disposal of these are incorporated in the Norwegian Regulation No. 1254 of 27 October 2007 concerning animal by-products not intended for human consumption:

The following transitional measures and derogations implemented by Norway have been notified to the Authority as required by Regulation (EC) No 1774/2002:

- Norway allows certain ABPs from remote areas to be disposed of as waste by burning or burial on site as permitted by Article 24 of Regulation (EC) No 1774/2002. Norway has designated a number of areas as remote including Finnmark county and several islands along the coastline. Norway has defined the areas as remote areas due to low animal density, long distances and inaccessibility.
- Norway allows for the feeding of certain ABPs to fur animals in accordance with Article 23 of Regulation (EC) No 1774/2002. Lists of end-users and collection centres authorized and registered pursuant to Article 23 are published on internet.
- Norway allows for smaller parts of animals which are not suspected of being infected by a contagious disease to be used as bait for wild animals in connection with hunting as permitted by Article 23 of Regulation (EC) No 1774/2002. A declaration must be sent to the NFSA prior to the use of the ABPs as bait.

- Norway has implemented transitional measures for certain category 1 and 2 material intended for technical uses in accordance with Articles 2 and 3 of Regulation (EC) No 878/2004. Business operators must apply to the NFSA for the derogations pursuant to Regulation (EC) No 878/2004.

The legal framework for the environmental protection related to treatment and handling of organic waste is laid down in the Act of 13 March 1981 No. 6 concerning protection against pollution and concerning waste (Pollution control Act), Regulation of 1 June 2004 No. 931 relating to pollution control (Pollution regulation) and Regulation of 1 June 2004 No. 930 relating to the recycling of waste (Waste regulation). According to the environmental legislation in Norway, all landfills in Norway had to comply with the requirements laid down in Directive 1999/31/EC by 16 July 2009. It is prohibited by the environmental legislation to dispose of readily degradable organic waste in landfills in Norway.

Conclusions:

The national legislation was, at the time of the mission, not in line with the EEA agreement since transitional measures no longer applicable were still in force in the Norwegian legislation.

5.2 Competent authorities

5.2.1 Designation of competent authority – organisation and responsibilities

Legal requirements

Article 4(1) of Regulation (EC) No 882/2004 requires Member States to designate the competent authorities responsible for the official controls set out in the Regulation. Article 4(2)(e) of the same Regulation requires the competent authorities to ensure that they have the legal powers to carry out official controls and to take the measures provided for in the Regulation.

Findings:

According to information provided by the NFSA in its reply to the pre-mission questionnaire of the Authority, there are two main competent authorities involved in the official controls of ABPs in Norway.

Norwegian Food Safety Authority

The NFSA is the competent authority responsible for administering the national ABPs regulation regarding human and animal health. The NFSA has three administrative levels. The head office is decentralized and located in 6 different locations, Oslo, Bergen, Sortland, Ås, Sandnes and Brumunddal. There are eight regional offices and 54 district offices. The NFSA has approximately 1,300 employees.

Norwegian Climate and Pollution Agency

KLIF, a directorate under the Ministry of Environment, is the competent authority responsible for administering the national regulation for protecting the environment from the impact of, *inter alia*, ABPs. KLIF has a staff of 320 and is located in Oslo. KLIF gives permits according to the Pollution control Act for any activity leading to pollution, and carries out inspections and audits to verify that requirements are fulfilled. As the central competent authority on environmental issues, KLIF delegates tasks to, manages and provides guidelines for the county governors' work related to prevention of pollution.

Finally, KLIF is the court of appeal for decisions adopted by the county governors. The county governor is the state authority at the county level in Norway. The county governors give permits to, *inter alia*, incineration plants, biogas plants, composting facilities and landfills, and are responsible for carrying out inspections and audits at these sites to verify that legal requirements are met. It is prohibited to dispose of organic waste in landfills in Norway. In cases where no other treatment methods are available in a region, the county governor may grant derogations from this prohibition in the period from 2009 to 2013. The municipalities of Norway are responsible for establishing a system for the collection of household waste. The county governors approve the municipal plans and is the court of appeal for decisions adopted by the municipalities.

During the visit to an incinerator plant the mission team observed that the facilities had a permit from the county governor and the county governor had carried out official controls of the facilities related to the environmental requirements. The biogas and composting plant and the landfill visited all had permits from the relevant county governor. The landfill and the field slaughter site for reindeer visited in remote areas both had derogations from the prohibition of land filling of organic waste, allowing them to bury ABPs.

Conclusions:

Norway has designated competent authorities for the handling of ABPs in line with the requirements laid down in the Regulation (EC) No 882/2004.

5.2.2 Coordination and cooperation between competent authorities

Legal requirements:

Article 4(3) of Regulation (EC) No 882/2004 provides for efficient and effective coordination and cooperation between competent authorities.

Article 3(1) of Regulation (EC) No 1774/2002 requires that ABPs and products derived therefrom shall be disposed of in accordance with the Regulation.

Findings:

According to representatives of the NFSA, the decisions adopted by the competent authorities involved in the handling of ABPs were not always well coordinated. The NFSA has sent a letter to the KLIF, as the central competent authority for the environmental issues, describing in particular three scenarios that, according to the NFSA, call for improved cooperation and coordination:

- Disposal of certain ABPs by burial or burning in remote areas according to Article 24 of Regulation (EC) No 1774/2002;
- Incinerators at farm level approved by the NFSA;
- Disposal of animals succumbed in fires.

The mission team observed in a biogas and composting plant visited that the county governor had issued a permit to establish bio cells. The establishment of these were part of a national project of waste treatment where waste is deposited in a pit. Pipelines for the collection of, e.g. waste water and gas from the degradation process of the waste were incorporated at different levels of the bio cell. The volume of the bio cells, in the visited establishment, was 10000 cubic meters and would be filled in a period of approximately 1.5 years. Waste deposited in these included ABPs, and after each deposit the waste would be covered by a layer of wooden material to ensure airing in the bio cell. One of the two

bio cells was at the time of the mission full and had been sealed off. According to representatives of the establishment, the plan was to uncover the buried waste after a period of five to seven years, however, no concrete plans for further handling could be presented to the mission team. Although ABPs were deposited in the bio cells, the NFSA had not been involved in the process of establishing such bio cells.

Conclusions:

Efficient and effective coordination and cooperation between competent authorities in line with the requirements of Article 4(3) of Regulation (EC) No 882/2004 could not always be ensured.

Furthermore, full compliance with Article 3(1) of Regulation (EC) No 1774/2002 could not be ensured since ABPs were deposited in bio cells, not disposed of in accordance with requirements of that Regulation.

5.2.3 Coordination and cooperation within competent authorities

Legal requirements:

Article 4(5) of Regulation (EC) No 882/2004 requires that when, within a competent authority, more than one unit is competent to carry out official controls, efficient and effective coordination and cooperation shall be ensured between the different units.

Findings

According to information provided by the NFSA in its reply to the pre-mission questionnaire of the Authority, the work related to ABPs at the central level of the NFSA is divided between the department of controls and the department of legislation. The NFSA National ABPs Controls Network (the ABPs network) was established in 2007 to secure optimal communications between national, regional and local levels of the NFSA. The ABPs network at central level is coordinated by the section for Fish and seafood, while three other sections from the department of controls (section for Land animals and animal health personnel, section for Animal-based food and section for Plants and vegetables) are responsible for ABPs related to their respective fields of competence. In addition to the four control sections, the department of legislation is represented by the section of Animal health and feed. The ABPs network is used for discussions, deciding and distributing best practice of controls among all the regions and districts of the NFSA. Furthermore the ABPs network is preparing national guidelines for official controls and participates in the industry's development of national guidelines. ABPs networks have also been established at regional and local levels of the NFSA.

The mission team observed in a collection centre for category 2 material and category 3 material visited that the district office of the NFSA responsible for the centre had asked the regional and central level for advice how to apply a conditional approval for the establishment. Another district office had requested clarification related to whether an establishment receiving fat derived from category 1 material needed to be registered by the NFSA. Neither district office had, at the time of the mission, received a reply. Furthermore, a representative of one of the regional offices stated that it was unclear how the transitional measures for biogas and composting plants laid down in Regulation (EC) No 809/2003 and 810/2003 should be applied. However, no further clarifications from the central level had been received.

The mission team also observed that the head office of the NFSA had collected all relevant requirements for biogas/composting plants laid down in Regulation (EC) No

1774/2002 and made it available for the district offices. According to a representative of the head office, similar summaries had been issued for the other types of ABPs plants. However, these summaries did not provide procedures to be followed to ensure uniformity of the official controls in the ABPs plants in the different districts, and as seen in several establishments, the district offices had not carried out e.g. validation when approving establishments (see also chapter 5.4.1).

Conclusions:

Full compliance with Article 4(5) could not be ensured since e.g. district offices carrying out the official controls did not receive clear documented procedures to be followed and clarification when needed.

5.2.4 Contingency planning

Legal requirements:

Article 4(2)(f) of Regulation (EC) No 882/2004 requires competent authorities to have contingency plans in place, and be prepared to operate such plans in the event of an emergency.

Findings:

During the opening meeting, the head office of the NFSA referred to the regional and district offices as those responsible for the handling of ABPs in case of emergency and the incorporation of this in the contingency plans. All regional offices have templates outlining the contingency plans, these are also available to all district offices.

The mission team noted that all district offices visited had participated in simulation exercises for different emergencies arranged by national or regional level. One district office visited had also arranged a local exercise. According to a representative of the NFSA, the budget allocation document of the NFSA for 2010 included an instruction to all regional offices to arrange an exercise this year.

The mission team also noted that the district offices visited had incorporated the handling of ABPs in their contingency plans to varying degrees. Some of the district offices had made local adaptations to the national contingency plans, e.g. considered the availability of incineration plants and processing plants for category 1 material or identified possible burial sites for carcasses in cooperation with the relevant municipalities. One district office had invited the aquaculture industry and a processing plant for category 2 material of fish origin for a meeting to discuss how to handle an emergency situation where the fish farms did not have sufficient capacity to ensile the category 2 material on site. In other district offices, the local adaptation related to handling of ABPs were more limited, e.g. not taking into consideration specific local issues such as reindeer farming in the district².

Conclusions:

The competent authority had established contingency plans, however, it could not be ensured that all district offices are prepared to operate these in accordance with Article 4(2)(f) of Regulation (EC) No 882/2004, since not all the district offices had considered local conditions for disposal of ABPs in case of an emergency.

² See heading “Page 11, 6th paragraph, last sentence” of Annex 4 for comments and additional information provided by the NFSA.

5.2.5 *Personnel and training of staff*

Legal requirements:

Article 4(2)(c) of Regulation (EC) No 882/2004 requires competent authorities to ensure that they have access to a sufficient number of suitably qualified and experienced staff. Article 6 of the same Regulation requires that the competent authorities ensure that staff receive appropriate training, and are kept up-to-date in their competencies.

Findings:

According to information provided by the NFSA in its reply to the pre-mission questionnaire of the Authority, the training of staff is secured through the ABPs Network (see chapter 5.2.3). Staff from the NFSA has also attended the “Better Training for Safer Food” program related to ABPs arranged by the European Commission. The mission team observed that staff from both local and central level had participated in the program. The outcome of the courses is distributed to the regional and local levels through the ABPs network. Representatives of the NFSA informed the mission team that training of official veterinarians in slaughterhouses included handling of ABPs.

Other than the training described above, the mission team noted that most of the district offices had appointed staff to deal with ABPs with no specific training in the field³.

According to a representative of a county governor met during the mission, handling of ABPs had not been included in the training of the officials in that office.

Conclusions:

The NFSA has access to suitably qualified and experienced staff in accordance with Article 4(2) of Regulation (EC) No 882/2004. However, it could not always be ensured that staff received appropriate training related to ABPs in accordance with Article 6 of the same Regulation and the mission team can not exclude that some of the shortcomings observed during the mission are due to the lack of training of staff, e.g. observations in food business operators where not all ABPs were considered in the official controls (see chapter 5.3.1 and 5.3.2) and validation of methods as part of the approval process (see chapter 5.4.1).

5.2.6 *Procedures*

Legal requirements:

Article 8(1) of Regulation (EC) No 882/2004 requires official controls to be carried out in accordance with documented procedures. Article 9 of the same Regulation requires the competent authority to draw up reports on the official controls that it carries out, describing the purpose, the control methods and the results of the official controls and, where appropriate, the corrective action required by the business.

Findings:

The mission team observed that at least two different, not dated, versions of the ABP guidelines were available on the website of the NFSA⁴. According to additional information provided by the NFSA at the opening meeting, the guidelines would be dated in the future. The mission team also observed that the ABPs guidelines did not provide

³ See additional information provided by the NFSA in its reply to the draft report in Point 5.2.5 of Annex 4.

⁴ See additional information provided by the NFSA in its reply to the draft report in Point 5.2.6 of Annex 4.

documented procedures to be followed during the validation process prior to approval of ABPs plants. In at least two of the district offices, the inspectors had developed their own checklists for official controls in a collection centre and in a slaughterhouse.

The mission team observed that most of the inspection reports issued after official controls in establishments related to ABPs described the scope, the findings and included deadlines for corrective actions. According to representatives of the NFSA, the inspection reports are based on templates generated by the control system of NFSA, MATS.

Conclusion:

Full compliance with Article 8(1) of Regulation (EC) No 882/2004 could not always be ensured since no documented procedure was in place for the approval of ABPs plants (see also chapter 5.4.1).

The inspection reports drawn up by the competent authority were largely in line with the requirements of Article 9 of regulation (EC) No 882/2004.

5.3 Chapters I and II of Regulation (EC) No 1774/2002 (Articles 1 to 9)

5.3.1 Categorisation, collection and transport

Legal requirements:

Article 3(3) of Regulation (EC) No 1774/2002 requires Member States to ensure that adequate arrangements are in place and that a sufficient infrastructure exists to guarantee compliance with the requirements for, amongst others, the collection and transport of ABPs.

Article 7 of the same Regulation lays down requirements for the collection, transport and identification of ABPs and processed products, including that the storage of processed products only takes place in storage plants approved in accordance with Article 11 of the same Regulation.

Findings:

The mission team observed that not all ABPs were considered as ABPs by the establishments visited when collecting and dispatching ABPs, nor were all ABPs included in the official controls carried out by the competent authority, e.g. hides and horns from slaughterhouses and contaminated milk from dairies. Furthermore, the category of the ABPs and processed products could not always be identified by the label or from the commercial documents, if such a document was accompanying the product. Finally, it was noted by the mission team that in one category 3 processing plant, raw materials had been received accompanied by commercial documents indicating that it was category 2 material (see also chapter 5.3.2).

In a slaughterhouse visited, two transport containers containing category 1 material, and labelled as such, were stored outside. Both containers were of poor maintenance and, at the time of the mission, the content was leaking onto the surrounding area. In addition, several plastic containers labelled “SRM” (Specified Risk Material) were stored outside, these were not properly cleaned and contained remnants of organic materials. Finally, containers filled with blood were also stored outside unlabelled. In another slaughterhouse visited, the digestive tract content was collected and stored without any identification or labelling. The digestive tract content was, according to the representative of the establishment, later to be collected by a farmer and transported by tractor from the

slaughterhouse to a farm to be used as organic fertilizer, no accompanying documents for the product could be presented to the mission team.

In establishments visited, the mission team observed varying degree of facilities available for cleaning and disinfection of vehicles, ranging from no facilities to adequate facilities.

In the collection centre visited, own vehicles were used to transport product to fur farms to be used as feed. According to a representative of the collection centre, the vehicles were labelled, and cleaned after each use. The mission team could not verify this since no trucks were present during the visit. The mission team noted that in a processing plant visited, vehicles used for transporting category 1 material were labelled with a sign that indicated “category 1 material – for destruction only”.

According to representatives of an establishment, approved for processing category 2 material and storage of category 3 material, the vessels used for transporting the material used different tanks for the different categories. The trucks used by the same establishment had previously been dedicated to a specific category since no facilities for cleaning them had existed in the old facilities of the establishment. The mission team observed that according to at least two inspection reports issued by the NFSA, the procedures for using dedicated trucks were not properly applied by the establishment. However, the mission team noted that in the new facilities visited during this mission, there were adequate cleaning and disinfecting facilities for vehicles.

In one establishment visited, the mission team noted that category 3 material of fish origin had been processed and stored since February 2010, however, the establishment was at that time not approved for this activity.

Conclusion:

Full compliance with Article 7 of Regulation 1774/2002 could not be ensured since the collection and transportation of animal by-products were not always in accordance with Annex II. Furthermore, processed products were stored in an establishment that was not approved according to Article 11 of the same Regulation.

5.3.2 Commercial documents, health certificates and records

Legal requirements:

Article 7(2) of Regulation (EC) No 1774/2002 requires that ABPs and processed products shall be accompanied, during transportation, by a commercial document or, when required by the Regulation, a health certificate. Article 9 of the same Regulation requires any person consigning, transporting or receiving animal by-products to keep a record of consignments as specified in Annex II. In addition to the records required in accordance with Annex II, collection centres, collecting and treating certain ABPs intended to be used for the feeding of animals specified in Article 23(2)(c), shall comply with point 4(b) of Annex IX of the same Regulation.

Findings:

The mission team noted that only a minority of the visited establishments used commercial documents for all the ABPs that they were dealing with. Food business operators did not identify all ABPs as such and therefore did not issue commercial document to accompany them during transport, e.g. recalled products in a dairy plant, offal supplied to pet food plants and hides and horns from slaughterhouses. The cutting plant visited used commercial documents only for ABPs dispatched to other Member States of the EEA, not for ABPs transported within Norway. The mission team also noted

that not all establishments receiving ABPs required commercial document to accompany the products on arrival, e.g. no commercial document had accompanied carcasses to an incineration plant visited.

Furthermore, the mission team noted that when commercial documents were used, these were not always completely or correctly filled in, e.g. no reference number, amount of product not indicated, missing signatures, commercial documents not filled in but signed by dispatcher, category not indicated, and the wording for the different categories (“for disposal only”, “not for animal consumption” and “not for human consumption”) were not included. The mission team also noted that commercial documents with a printed heading, indicating that they should only be used when transporting category 2 material, were being used for category 3 material. The raw material was accepted by a category 3 processing plant and processed as category 3 material. This had also been pointed out by the competent authority during an inspection in the establishment, and for at least some of the commercial documents accompanying consignments received after this “Cat 3” was added by hand.

The mission team noted that in most of the visited establishments, no or limited records were kept of ABPs received at, or dispatched from, the different premises. According to representatives of the NFSA, the keeping of records for ABPs handled has been discussed within the NFSA, and a conclusion had been reached that, *for enterprises dealing with a very limited number of commercial documents*, it is sufficient to keep commercial documents for handled ABPs and not an additional record⁵.

Conclusion:

Full Compliance with Article 7(2) of Regulation (EC) No 1774/2002 cannot be ensured since commercial documents do not accompany all ABPs and if they do accompany the ABPs not all required information is included in the commercial documents.

Full compliance with Article 9 of the same Regulation cannot be ensured since the majority of establishments did not keep records in line with the requirements of Annex II for all ABPs handled. Furthermore, the collection centre, collecting and treating certain ABPs intended to be used for the feeding of animals specified in Article 23(2)(c), should in addition keep records in accordance with point 4(b) of Annex IX of the same Regulation.

5.3.3 Requirements for dispatch of ABPs to other EEA countries and export to third countries

Legal requirements:

Article 8 of Regulation (EC) No 1774/2002 lays down the conditions for dispatch of certain ABPs and processed products to other EEA countries.

Point III(E) of Annex IV of Regulation (EC) No 999/2001 prohibits export to third countries of processed animal proteins derived from ruminants and lays down conditions for the export to third countries of processed animal proteins derived from non-ruminants.

⁵ See heading “Page 15: 2nd paragraph” of Annex 4 for comments and additional information provided by the NFSA.

Findings:

The mission team observed that category 2 material of fish origin, treated by the alternative method authorised by the NFSA, fish silage processing method (see chapter 5.1), was dispatched to other EEA countries. Processed animal protein, e.g. fishmeal and meat and bone meal, was also dispatched to other EEA countries. In one district office visited, the NFSA had received an authorisation from the member state of destination for the receipt of fishmeal. In the other district offices, no authorisation from the member state of destination had been received prior to dispatch of category 1 or 2 ABPs or processed animal protein. Furthermore, according to representatives of the NFSA, no information from the competent authority of the place of destination was received for the arrival of each consignment. Finally, the mission team noted that there were no procedures in place in the district offices to authorise the receipt of category 1 or 2 ABPs and processed products derived thereof or processed animal protein from other EEA countries, or to inform the competent authority of the place of origin of the arrival of each consignment.

According to information provided by the NFSA in the reply to the Authority's pre-mission questionnaire, processed animal protein was exported to third countries in 2007, 2008 and 2009 (see table 2 of Annex 3 to this report). Furthermore, according to additional information received from the NFSA during the mission, the processed animal protein exported was derived from, *inter alia*, ruminants. In the final meeting, the mission team was informed by the department of regulations of the NFSA that from 1 May 2010, the legislation in Norway includes the provisions laid down in Annex IV of Regulation (EC) No 999/2001.

Conclusions:

Full compliance with Article 8 of Regulation (EC) No 1774/2002 could not be ensured since no authorisation for the receipt of category 1 or 2 ABPs and processed products derived thereof or processed animal protein was received from the EEA country of destination. Furthermore, a procedure to ensure that the competent authority of the place of destination informed the competent authority at the place of origin of the arrival of each consignment was not in place.

5.4 Chapters III, IV, V and VI of Regulation (EC) No 1774/2002 (Articles 10 to 26)

5.4.1 Approval, registration and list of approved ABP plants

Legal Requirements:

Articles 10 to 15, 17 and 18 of Regulation (EC) No 1774/2002 lay down the specific requirements for the approval of the different types of ABP plants. Furthermore, Article 23 of the same regulation lays down provisions for authorisation of collection centres.

Article 26(4) of Regulation (EC) No 1774/2002 requires that a list of approved plants is drawn up, identifying the nature of their activities. Moreover, Regulation (EC) No 1192/2006 sets out implementing rules regarding the said lists, including some technical specifications.

Article 31 of Regulation (EC) No 882/2004 requires Member States to establish procedures for the registration/approval of food and feed business operators, for reviewing compliance with conditions of registration and for the withdrawal of approvals.

Findings:

The mission team noted that ABPs plants had at times operated without a valid approval. One collection centre visited had a conditional approval until August 2008 and the final approval had first been issued January 2009. A storage plant for category 3 material had stored category 3 material since February 2010. The plant had processed category 2 material since August 2010. However, the plant had, at the time of the mission, not yet been approved by the NFSA. A conditional approval had been issued in September 2010, backdated to August 2010. Finally, a category 3 processing plant had a conditional approval until 11 September 2009 and the final approval was first issued 18 November 2009.

The mission team also noted that for only two of the visited processing plants, one for category 1 material and one for category 3 material, did the approval document refer to which method was used for processing ABPs. These were also the only establishments visited where the process documented in the own checks system of the plant corresponded to the requirements of a given method. According to representatives of the relevant district office of the NFSA, the process in the category 1 and category 3 processing plant had been validated prior to approval.

The mission team noted that according to the Norwegian national legislation, category 2 material of fish origin could be processed by a fish silage processing method, authorised by the NFSA. The NFSA had submitted their risk assessment for this method to the European Food Safety Authority and to the European Commission. However, the NFSA had not, at the time of the mission, received any feed back from these.

In a processing plant for category 2 material, representatives of the establishment stated that they were using the fish silage processing method authorised, and published on the website, by the NFSA for processing category 2 material of fish origin. However, a representative of the NFSA stated that the plant was approved for using processing method 5, although the process parameters in the process used by the establishment did not correspond to the parameters laid down in the Annex V Chapter III of the Regulation (EC) No 1774/2002 for method 5. Another processing plant approved for processing category 3 material of fish origin was according to a representative of the district office, approved for processing method 7. However, also in this plant the mission team noted that the process parameters in the plant (82°C for 30 minutes) did not correspond to the parameters for method 7 published by the NFSA on their website (particles ≤10mm, temperature ≥85° for ≥25 minutes). Finally, in a plant approved for processing category 3 material in addition to being approved as biogas and composting plant, the approval document only mentioned the compost process of products that passed through a hygenisation equivalent to process method 1. However, the mission team observed that the raw material with particle size ≥ 80 mm was composted outdoors with no recording of relevant parameters such as particle size, time and temperature. The mission team observed that the own checks established by the approved processing plants visited were of varying quality (see also chapter 5.4.2), e.g. not all relevant parameters were recorded and monitored.

According to information provided in the NFSA's reply to the pre-mission questionnaire of the Authority, the list of approved ABPs plants is publicly available on the website of the NFSA. The designation of approval numbers did not appear to be uniform and according to the same standards nation wide. The mission team noted that in the published list, several establishments were listed with multiple approval numbers. According to a representative of the NFSA, the only option in the control system of the NFSA, MATS, was to give one approval number for each activity that an establishment was approved for.

The mission team observed one example where one establishment was listed eight times in total, four times in the biogas section and four in the processing plant section. The establishment had four different approval numbers for its activities.

Conclusions:

The NFSA has drawn up and made publicly available a list of approved plants in line with the requirements laid down in Article 26 of Regulation (EC) No 1774/2002.

Full compliance with the requirements for approval of different ABPs plants, as laid down in the relevant articles of Regulation (EC) No 1774/2002, could not be ensured since establishments at times operated without valid approvals. Furthermore, approvals had been issued for processing plants where the process parameters did not correspond to the approved processing methods. Finally, full compliance with Article 5(2)(d) of Regulation 1774/2002 could not be ensured since Norway permitted category 2 material of fish origin to be ensiled without such rules having been adopted in accordance with the procedure referred to in Article 33(2) of that Regulation.

Full compliance with Article 31 of Regulation (EC) No 882/2004 could not be ensured since conditional approvals had been issued by the NFSA for establishments other than food and feed business establishments.

5.4.2 Plants own check systems and official controls in ABPs plants

Legal requirements

Article 25 of Regulation (EC) No 1774/2002 requires intermediate and processing plants to put in place a procedure developed in accordance with the principles of the system of hazard analysis and critical control points (HACCP).

Article 26 of the same Regulation requires the competent authority to carry out inspections and supervision at plants approved in accordance with the Regulation at regular intervals. In addition, inspections and supervision of processing plants must take place in accordance with Annex V, Chapter IV.

Article 15(2)(e) of the same Regulation requires the competent authority to ensure that, in biogas and composting plants, the digestion residues and compost, as appropriate, comply with the microbiological standards laid down in the Regulation.

Findings

The mission team noted that own checks established by the establishments visited were of varying quality. A processing plant for category 2 material visited was, at the time of the mission, in the process of establishing own checks based on the HACCP principles. In a biogas plant visited, the mission team observed that samples of the digestion residues were analysed for *Salmonella spp.*, faecal coliforms and infective eggs of parasites. Salmonella positive samples were communicated to the company that collected the product, however, the competent authority was not notified. Furthermore, the products in question were not reprocessed in the plant before being dispatched.

In a processing plant for category 3 material of fish origin, a HACCP plan in line with the requirements was in place and samples were taken from the processed products, fish meal and fish oil. In a category 3 and a category 1 processing plants visited, HACCP plans were established in line with the requirements. However, the mission team noted some minor shortcomings, e.g. incomplete corrective action at one critical control point. Finally, the mission team noted in a biogas and composting plant visited that the digestion residues

and compost were not sampled by the establishment. According to representatives of the establishment, the compost was sampled by an external company, the recipient of the product. The mission team received copies of analysis reports where the microbiological parameters included only monthly report on bacterial and *Bacillus cereus* genome content and colony count in the biorest liquid.

The mission team observed related to the documentation of the official controls carried out by the NFSA, that the inspection reports included description of observations, evaluation of the observations, identified shortcomings and deadlines for corrective actions. In the majority of the visited establishments, the NFSA had also followed up by e.g. new inspections or evaluation of the corrective actions notified by the establishments.

The mission team noted that in some establishments there were delays in issuing inspection reports by the NFSA, e.g. an inspection report was dated 7 September 2010, however, the inspection had taken place on 3 August 2010.

In a slaughterhouse visited, the official controls related to ABPs had focused on the collection and handling of SRM. The inspections were well documented and followed up by the NFSA. However, the mission team noted that the inspection reports from the NFSA did not include shortcomings such as no labelling of containers used for collecting and transporting blood, maintenance conditions of the transport containers (previously described in Chapter 5.3.1) or the fact that ABPs, other than SRM, were dispatched from the slaughterhouse without commercial documents. In another slaughterhouse visited, the handling of the ABP had been inspected, but limited to SRM and category 3 material sent to category 1 and category 3 processing plants, respectively. However, other ABPs, e.g. offal, destined for pet food, and hides, were not considered by the NFSA when carrying out official controls related to ABPs. In a dairy plant visited the mission team noted that the last inspection report from the competent authority addressing issues related to ABPs was from 2007.

According to representatives of a composting plant visited, the NFSA had not requested to see analysis reports of the digestion residues. Furthermore, according to representatives of the NFSA, no official samples were taken at the premises visited.

Conclusion:

Full compliance with the Article 25 and Article 26 of Regulation 1774/2002 could not be ensured since not all plants had not put in place, implemented and maintained a permanent procedure developed in accordance with the HACCP principles.

Full compliance with Article 15(2)(e) of the same Regulation could not be ensured since the competent authority did not ensure that, the digestion residues and compost, as appropriate, complied with the microbiological standards laid down in the Regulation.

5.5 Article 7 and Annex IV to Regulation (EC) No 999/2001 and Regulation (EC) No 181/2006

5.5.1 Total feed ban

Legal requirements:

Article 7 and Annex IV of Regulation (EC) No 999/2001 lay down prohibitions concerning animal feeding and exemptions applicable to these prohibitions.

Findings:

According to information provided by the NFSA in its reply to the pre-mission questionnaire of the Authority, the national legislation had been amended, and the ban on the use of animal protein in feedingstuffs for food-producing animals, as laid down in Article 7 and Annex IV of Regulation (EC) No 999/2001, entered into force in Norway on 1 May 2010.

The mission team noted in a farm visited during this mission that feed containing fish meal was labelled with the wordings “contains fishmeal - must not be fed to ruminants”.

Conclusion:

The labelling of feedstuffs containing fishmeal was found to be in line with the requirements laid down in Annex IV of Regulation (EC) No 999/2001.

5.5.2 *Organic fertilizers*

Legal requirements

The Regulation (EC) No 181/2006 lays down the requirements for organic fertilizers and soil improvers.

Findings

The mission team noted that at two farms visited using meat and bone meal as organic fertilizer, records of the use of the product were kept. At the time of the mission, there was no meat and bone meal stored on the two farms. According to the farmers, the product was mixed with manure before it was applied on the field. Both farmers were also aware and had paid attention to the grazing restrictions and other restrictions on the use of the product.

The mission team noted that the NFSA had carried out official controls related to the storage of the meat and bone meal and the use as organic fertilizer in both farms visited. Some minor shortcomings had been identified and followed up by the NFSA.

Conclusions:

The use of meat and bone meal was found to be in line with the requirements laid down in Regulation (EC) No 181/2006.

5.6 **Hygiene requirements**

Legal basis

Regulation (EC) No 853/2004 and Regulation (EC) No 183/2005 lays down the hygienic requirements for food and feed business operators respectively.

Findings

In a dairy plant visited, the mission team observed that the same production line was used for producing milk powder for human consumption and for producing feed with additives. At the time of the mission the production line was not in operation. The manager of the production line informed the mission team that the production of feed was limited to periods of approximately two weeks, three to four times a year. Following the production of feed the production line was cleaned before production of food stuffs started again. Furthermore it was stated that the first couple of bags of product was discarded to avoid any contamination. However the manager also informed the mission team that the HACCP

manual did not include a detailed description of the procedures related to the production of food and feed and the instructions related to the cleaning in between. The mission team also noted that when asked whether any homogenisation or carry over tests had been carried out, the manager could not confirm that any of these tests had been carried out related to feed production. Finally, the mission team noted that the hygienic conditions in the storage area for packaging material and in the packaging area for final products were poor, e.g. several unsealed bags containing milk powder were stored there. A representative of the establishment stated that the bags contained product for disposal only, however, some of the bags were labelled as containing food product. While drafting this report, the NFSA notified the Authority of corrective actions initiated by the NFSA related to the dairy plant visited. Following the visit, the NFSA had issued an inspection report and a notification of decisions to be adopted related to the hygiene conditions, the sampling of whey for *Salmonella spp.* analysis, HACCP manual for the feed production and the use of commercial documents.

The mission team visited a small capacity slaughterhouse slaughtering wild game, pigs, sheep and cattle. The establishment was not in production during the visit, however, the mission team observed several problems related to the hygienic conditions in this establishment. The layout and flow of personnel and products could not exclude cross contamination of products. The freezer storage for finished products was located next to the chilled storage and personnel had to cross the chilled storage, where carcasses were hanging, in order to get access to the freezer. The mission team also noted that the freezer was used for storing, *inter alia*, retail products from a cutting plant in addition to a variety of products such as berries and antlers in addition to several unidentified black waste-bags. The digestive tract content was collected in a separate room, however, the level of the digestive tract content was higher than the latch in the wall, allowing leakage of the digestive tract content back into the facilities.

Conclusion:

Full compliance with the hygienic requirements for food and feed business operators laid down in Regulation (EC) no 853/2004 and 183/2005 could not be ensured since the hygienic conditions in two food business operators, one also registered as a feed business operator, were poor.

6 Final meeting

The final meeting was held with representatives of NFSA, KLIF, the Ministry of Fisheries and Coastal Affairs and the Ministry of Agriculture and Food in Oslo on Friday 17 September 2010. The meeting was arranged as a video conference, allowing the head office of the NFSA in Sandnes to participate. At the final meeting, the mission team presented the main observations and some preliminary conclusions from the mission. The representatives of NFSA accepted the observations and preliminary conclusions presented.

7 Recommendations

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 recommendations hereunder. The Authority should also be kept informed of the completion of the measures included in the timetable.

No	Recommendation
1	Norway should ensure that its national legislation is in line with the EEA Agreement.
2	The competent authorities should ensure effective co-operation between and within competent authorities as required by Article 4(3) and 4(5) of Regulation (EC) No 882/2004.
3	The competent authorities should ensure that ABPs are disposed of in accordance with the Regulation (EC) No 1774/2002 as required by Article 3(1) of that Regulation.
4	The competent authority should ensure that all district offices are prepared to operate the contingency plans in accordance with Article 4(2)(f) of Regulation (EC) No 882/2004.
5	The competent authority should ensure that its staff receives appropriate training related to ABPs in accordance with Article 6 of Regulation (EC) No 882/2004.
6	The competent authority should ensure that documented procedures to be followed when carrying out official controls are in place in accordance with Article 8(1) of Regulation (EC) No 882/2004.
7	The competent authority should ensure that the collection, transport and storage of animal by-products and processed products are done in accordance with Article 7 and Annex II to Regulation (EC) No 1774/2002. Furthermore, the competent authority should ensure that all ABPs are accompanied by commercial document or, when required by the Regulation, a health certificate, during transport.
8	The competent authority should ensure that any person consigning, transporting or receiving animal byproducts keep a record of consignments in accordance with Article 9 and Annex II of Regulation (EC) No 1774/2002 and in addition for collection centers, collecting and treating certain ABPs intended to be used for the feeding of animals specified in Article 23(2)(c), point 4(b) of Annex IX of the same Regulation.
9	The competent authority should ensure that dispatch of relevant ABPs and processed products to, and introduction from, other EEA countries is done in accordance with the requirements laid down in Article 8 of Regulation (EC) No 1774/2002.
10	The competent authority should ensure that ABPs are only dealt with by approved ABPs plants, applying the approval requirements laid down in the Articles 10 to 15, 17 and 18 of the Regulation (EC) No 1774/2002. Furthermore, the competent authority should ensure that approved ABP plants use one of the processing methods laid down in Chapter III of Annex V or adopted in accordance with the procedure referred to in Article 33(2) of the same Regulation.
11	The competent authority should ensure full compliance with Article 31 of Regulation (EC) No 882/2004 by issuing conditional approvals only for food and feed business establishments in line with the requirements of the Regulation.
12	The competent authority should ensure that own check systems are established by the processing plants in accordance with the requirements of Article 25 and that official controls are carried out in line with the requirements of Article 26 of Regulation (EC) No 1774/2002.

13	The competent authority should ensure that the digestion residues and compost, as appropriate, complies with the microbiological standards laid down in Regulation (EC) No 1774/2002 in compliance with Article 15(2)(e) of the Regulation.
14	The competent authority should ensure that all food and feed business operators operate in accordance with the hygiene requirements laid down in Regulations (EC) No 853/2004 and 183/2005.

Annex 1 – List of abbreviations and terms used in the report

ABPs	Animal by-products not intended for human consumption as defined in Article 2 of Regulation (EC) No 1774/2002
ABPs network	Norwegian Food Safety Authority national animal by-product controls network
Authority	EFTA Surveillance Authority
Category 1 material	ABPs as defined in Article 4 of Regulation (EC) No 1774/2002
Category 2 material	ABPs as defined in Article 5 of Regulation (EC) No 1774/2002
Category 3 material	ABPs as defined in Article 6 of Regulation (EC) No 1774/2002
EC	European Community
EEA	European Economic Area
EEA Agreement	Agreement on the European Economic Area
Food Act	Norwegian Food Production and Food Safety Act No. 124 of 19 December 2003 relating to food safety, plant and animal health
HACCP	Hazard analysis and critical control points
KLIF	The Norwegian Climate and Pollution Agency
MBM	Meat and bone meal
NFSA	Norwegian Food Safety Authority
Pollution control Act	Act of 13 March 1981 No. 6 concerning protection against pollution and concerning waste
Pollution regulation	Regulation of 1 June 2004 No. 931 relating to pollution control
RUBIN	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
SRM	Specified risk material
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
TSE	Transmissible spongiform encephalopathies
Waste regulation	Regulation of 1 June 2004 No. 930 relating to the recycling of waste

Annex 2 – Other relevant EEA legislation

The following legislation was taken into account in the context of this mission:

- a) The Act referred to at Point 1.1.11 of Chapter I of Annex I to the EEA Agreement, *Regulation (EC) No 882/2004 of the European Parliament and of the Council of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules*, as corrected and as amended;
- b) The Act referred to at Point 6.1.17 of Chapter I of Annex I to the EEA Agreement, *Regulation (EC) No 853/2004 laying down specific hygiene rules for food of animal origin*, as corrected, amended and as adapted to the EEA Agreement by sectoral adaptations as referred to in Annex I to that Agreement;
- c) The Act referred to at Point 7.1.9b of Chapter I of Annex I to the EEA Agreement, *Regulation (EC) No 1774/2002 of the European Parliament and of the Council of 3 October 2002 laying down health rules concerning animal by-products not intended for human consumption*, as corrected and as amended;
- d) 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;
- e) The Act referred to at Point 7.2.34 of Chapter I of Annex I to the EEA Agreement, *Commission Regulation (EC) No 809/2003 of 12 May 2003 on transitional measures under Regulation (EC) No 1774/2002 of the European Parliament and of the Council as regards the processing standards for category 3 material and manure used in composting plants*, as amended;
- f) The Act referred to at Point 7.2.35 of Chapter I of Annex I to the EEA Agreement, *Commission Regulation (EC) No 810/2003 of 12 May 2003 on transitional measures under Regulation (EC) No 1774/2002 of the European Parliament and of the Council as regards processing standards for category 3 material and manure used in biogas plants*, as amended;
- g) The Act referred to at Point 7.2.36 of Chapter I of Annex I to the EEA Agreement, *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*;
- h) The Act referred to at Point 7.2.38 of Chapter I of Annex I to the EEA Agreement, *Commission Regulation (EC) No 878/2004 of 29 April 2004 laying down transitional measures in accordance with Regulation (EC) No 1774/2002 for certain animal by-products classified as Category 1 and 2 materials and intended for technical purposes*, as amended;
- i) The Act referred to at Point 7.2.39 of Chapter I of Annex I to the EEA Agreement, *Commission Regulation (EC) No 92/2005 of 19 January 2005 implementing Regulation (EC) No 1774/2002 of the European Parliament and of the Council as regards means of disposal or uses of animal by-products and amending its Annex VI as regards biogas transformation and processing of rendered fats*, as amended;

- j) The Act referred to at Point 7.2.40 of Chapter I of Annex I to the EEA Agreement, *Commission Regulation (EC) No 1192/2006 of 4 August 2006 implementing Regulation (EC) No 1774/2002 of the European Parliament and of the Council as regards lists of approved plants in Member States;*
- k) The Act referred to at Point 7.2.41 of Chapter I of Annex I to the EEA Agreement, *Commission Regulation (EC) No 2007/2006 of 22 December 2006 implementing Regulation (EC) No 1774/2002 of the European Parliament and of the Council as regards the importation and transit of certain intermediate products derived from Category 3 material intended for technical uses in medical devices, in vitro diagnostics and laboratory reagents and amending that Regulation;*
- l) The Act referred to at Point 7.2.43 of Chapter I of Annex I to the EEA Agreement, *Commission Regulation (EC) No 79/2005 of 19 January 2005 implementing Regulation (EC) No 1774/2002 of the European Parliament and of the Council as regards the use of milk, milk-based products and milk-derived products, defined as Category 3 material in that Regulation;*
- m) The Act referred to at Point 7.2.44 of Chapter I of Annex I to the EEA Agreement, *Commission Regulation (EC) No 181/2006 of 1 February 2006 implementing Regulation (EC) No 1774/2002 as regards organic fertilisers and soil improvers other than manure and amending that Regulation;*
- n) The Act referred to at Point 7.2.45 of Chapter I of Annex I to the EEA Agreement, *Commission Regulation (EC) No 197/2006 of 3 February 2006 on transitional measures under Regulation (EC) No 1774/2002 as regards the collection, transport, treatment, use and disposal of former foodstuff, as amended;*
- o) The Act referred to in Point 31m of Chapter II of Annex I to the Agreement on the European Economic Area (EEA Agreement), *Regulation (EC) No 183/2005 of the European Parliament and of the Council of 12 January 2005 laying down requirements for feed hygiene, as adapted;*

Annex 3 – Trade, import and export of animal by-products

ABPs of land animal origin.

Sweden and the Netherlands are the main markets for Norwegian MBM, while import of MBM is mainly from Germany

Key figures for trade, import and export of ABPs of land animal origin and processed products thereof are given in table 1 and 2.

Table 1 Import of MBM (tons)

	2007	2008	2009
Total EEA	810687	803628	1029289
Germany	785	802	103
Sweden	24		
Total third countries			0.3
Chile			0.3

Table 2 Export of MBM (tons)

	2007	2008	2009
Total EEA	1346	12598	14024
Netherlands		5540	6404
Sweden	763	6607	6280
Denmark	427	93	802
Italy	116	190	247
Czech Republic	23	115	211
Lithuania			71
Others	14	50	6
Total third countries	15825	74	6.3
Bangladesh	15521		
Vietnam	303		
Iceland ⁶		74	
USA			6,3

⁶ According to additional information received from the NFSA while drafting this report, the destination of this MBM was the Netherlands, not Iceland.

ABPs from fish origin

In 2008, 140000 tons of un-processed ABPs of fish origin were dispatched to other EEA countries, mainly Denmark, Germany, the Netherlands and Greece.

The key figures for trade, import and export of ABPs of fish origin and processed products thereof are given in table 3 and 4.

Table 3 Export fish meal/pellets (tons)

	2007	2008	2009
Total EEA	22786	17509	24365
Denmark	4540	2673	10225
Sweden	2306	2651	2992
Great Britain	9608	3679	2919
Greece	10	6002	2776
Other EEA	4986	2237	4453
Total third countries	707	895	2376
China	286	440	1862
Taiwan	420	397	510
Other	1	22	4

Table 4 Import of fish meal/pellets (tons)

	2007	2008	2009
Total EEA	97808	155316	176555
Denmark	43036	72034	83111
Iceland	46644	69470	79517
Germany	5564	13478	13802
Other EEA	2564	334	125
Total third countries	121450	87015	150655
Peru	73644	56967	119912
Chile	29370	26930	6978
Uruguay	2327	2254	3764
Other	16109	864	1

Annex 4 – Reply from the NFSA to the draft report

EFTA Surveillance Authority
Rue Belliard 35
1040 Brussels
Belgia

Your ref: Case No 68118
Our ref: 2010/130727
Date: 08.11.2010
Org.no: 985 399 077

Norwegian Food Safety Authority



Dear Sir/Madam,

SUBJECT: EFTA SURVEILLANCE AUTHORITY'S (ESA) MISSION TO NORWAY FROM 6-17 SEPTEMBER 2010, CONCERNING ANIMAL BY-PRODUCTS NOT INTENDED FOR HUMAN CONSUMPTION – COMMENTS TO THE DRAFT REPORT

The Norwegian Food Safety Authority (NFSA) appreciates the invitation to give a response to the EFTA Surveillance Authority's draft report of 15 October 2010 following the mission to Norway 6-17 September 2010, examining the application in Norway of EEA legislation concerning Animal By-Products (ABP), not intended for human consumption.

Norway would like to express some comments on the factual content of the draft report.

Information on NFSA's action and follow up plans in response to the recommendations are listed in an attached Table. However, we would like to emphasise that most of the shortcomings found during the inspection will be overcome after the running of the MATS system with all templates for inspection and approval of ABPs plants. This will also insure a unified application of the provisions through out Norway.

2 Scope and objective of the mission

In the contents of Table 1, It should also be mentioned that in addition to representatives from the NFSA, representatives from the County Governor were also present in accompanying the mission team, in all three regions visited or when ever it was appropriate.

Prior to the mission meetings were arranged between the two competent authorities, where it was concluded that for the achievement of best results, both authorities should accompany the mission, especially in the areas when the legislation required the presence of both. This marked the start of a good cooperation between the two authorities.

5.2.6 Procedures

There is now only one version of the ABP guidelines available on the website of the NFSA. This point was dealt with spontaneously during the mission.

5.2.5.

We agree that appropriate training could be improved and thereby improve the compliance of the legislation in the ABP area. However, in addition to the information we supplied in answering the PMQ document, we missed to mention that NFSA has special e-learning courses related to various topics and areas, and that e-learning course in the field of ABP regulation is also available for the NFSA personnel.

Page: 11. 6th paragraph, last sentence:

“Reindeer farming”. The expression “farming” might be misleading. Reindeers are relatively free ranging on natural pastures. We therefore suggest “reindeers on natural pastures”

As far as contingency plans taking into consideration local issues is concerned, we would like to convey the comments received from Troms Finnmark, as they underline that there, they are operating in vast areas and over great distances, where it is difficult and not always possible to point out practical solutions on a local level. They suggest that as far as reindeers on natural pastures are concerned, contingency plans taking into consideration regional issues is more appropriate.

Page15: Second paragraph:

The conclusion that keeping a collection of commercial documents, and not additional records, was restricted to those enterprises dealing with a very limited number of commercial documents.

The region has reported challenges concerning compliance with Article 4 1 e /2d. This was also focused upon under the inspection, but unfortunately we do not see that this was reflected in the report.

Finally NFSA would like to express that the draft report is very useful and NFSA would use its content as guidance for further improved compliance with the legislation concerning the whole chain of ABP handling.

Please find attached Table 1, ESA’s recommendations and NFSA’s remarks and corrective action.⁷

Yours Sincerely


Kristina Landsverk
Deputy Director General

⁷ Please see Annex 5 for table of corrective actions.



Annex 5 – Table of corrective actions provided by the NFSA in its reply to the draft report


SUBJECT: EFTA SURVEILLANCE AUTHORITY'S (ESA) MISSION TO NORWAY FROM 6-17 SEPTEMBER 2010, CONCERNING ANIMAL BY-PRODUCTS NOT INTENDED FOR HUMAN CONSUMPTION.


Table 1 – ESA's recommendations and NFSA's remarks and corrective action.

No	ESA Recommendations	NFSA remarks and Corrective action	Date	Closed
1	Norway should ensure that its national legislation is in line with the EEA Agreement.	Norway aims to ensure that national legislation is in line with the EEA-Agreement. The transitional measures for biogas and composting plants laid down in Regulations (EC) No 809/2003 and 810/2003 will be removed from Regulation 27 October 2007 No 1254 concerning animal by-products not intended for human consumption § 2 as soon as possible. The Norwegian Food Safety Authority sees now that it is most realistic that such an amendment is adopted in the revision of the national regulation which implements the impending Regulation (EC) No. 1069/2009.	2011	
2	The competent authorities should ensure effective co-operation between and within competent authorities as required by Article 4(3) and 4(5) of Regulation (EC) No 882/2004.	NFSA initiated in August 2010 work collaboration with KLIF and two County governors in the area of implementation and compliance with by-products regulation. Clarification of responsibilities, establishment of mutual understanding, and coordination of both authorities control, for compliance with the regulations, where the major themes of the initial meeting. For more efficient and effective coordination and cooperation between the two authorities, work collaboration will be consolidated in the areas of biogas and compost and waste disposal. The cooperation will be expanded to include meetings on regular basis with KLIF/all County governors in 2011 to insure updating and exchange of information about each other legislation.. Enclosed a note in Norwegian from the meeting in August.  møte mellom fylkesmannen og mat	2011	

		As far as the Bio cells projects established and approved by County governors is concerned , the NFSA /HK have directed the RK/DK concerned to request a written plan for project from plant concerned and approval conditions from County governors and carry out follow up meetings and inspections with the plant and County governors to insure compliance with ABP's regulation. After a thorough evaluation and review with the KLIF/County Governors HK would evaluate the approval of these projects in compliance with article 23.1 a) research, and depending on successful results, possibility of NFSA future consideration for approval as alternative methods (article 33. 2.)		
3	The competent authorities should ensure that ABPs are disposed of in accordance with the Regulation (EC) No 1774/2002 as required by Article 3(1) of that Regulation.	NFSA is going to direct special efforts to insure that ABPs are disposed of in accordance with requirements in article 3(1). Please see NFSAs plans to consolidate collaboration with county governors mentioned in the above point (2). And the NFSAs action planed to deal with the Biocell project.	2011	
4	The competent authority should ensure that all district offices are prepared to operate the contingency plans in accordance with Article 4(2)(f) of Regulation (EC) No 882/2004.	NFSA is going to ensure that all district offices are prepared to operate a contingency plan, all regions are going to be instructed to update their contingency plans and insure the incorporation of handling ABPs (local adaptation/conditions to disposal) in emergency situation, as well as continuing to arrange an exercise of the plan. Cooperation with County Governor would be included in instruction communication.	2011	
5	The competent authority should ensure that its staff receive appropriate training related to ABPs in accordance with Article 6 of Regulation (EC) No 882/2004.	The NFSA will use the existing ABP network model (resource and coordinating group) more effectively to enhance the competence of staff performing official control. Further, the arrangement of staff training with focus on the shortcomings areas stated in this report will be focused upon. Our experience show that organisation of the ABP control in a network model has been an efficient and low cost alternative for competence enhancement as we use regular telephone meetings and e-mail communications. As plans and budget for 2011 are already finalised The financial NFSA is going to make sure that plans for staff training should be focused upon in	2011-2012	

		<p>planning 2012.</p> <p>We will also request the staff to use the e-learning course on ABP.</p>		
6	<p>The competent authority should ensure that documented procedures to be followed when carrying out official controls are in place in accordance with Article 8(1) of Regulation (EC) No 882/2004.</p>	<p>The NFSA Head Office has now started the work with producing templates for official controls and approval of all types of plants working with ABP and subject til approval in accordance with ABPs regulation.</p> <p>Hereby attached template produced for inspection and approval of processing plant.</p>  <p>Precessing plant requirements templat</p> <p>After testing and comments of inspectors in District Offices it will be compiled in the MATS system. We hope that templates for inspection and approval of all types of ABPs plants is in the MATS system by the end of this year, and thus insuring unified application and guidance of implementation of provisions for approval and inspection on a national level.</p>	2010	
7	<p>The competent authority should ensure that the collection, transport and storage of animal by-products and processed products is done in accordance with Article 7 and Annex II to Regulation (EC) No 1774/2002. Furthermore, the competent authority should ensure that all ABPs are accompanied by commercial document or, when required by the Regulation, a health certificate, during transport.</p>	<p>Many of the findings in this report were due to shortcomings in the use of commercial documents. Therefore, a new, and more detailed commercial document for national use will be published on the internet as soon as possible, a draft of the document is ready.</p>  <p>Draft o a new Norwegian commercia</p> <p>This will be included in MATS and the use of correct commercial documents will be focused in the ABP network.</p> <p>NFSA will point out that this is not only important in the ABP industry, but also in the food business, whenever by-products are generated the correct document should be followed.</p>	2010-2011	
8	<p>The competent authority should ensure that any person consigning, transporting or receiving animal by-products keep a record of consignments in accordance with Article 9 and Annex II of</p>	<p>We can only emphasis our action plan referred to point 6 and reiterate that the accomplishment of compiling the templates for approval and inspection in the MATS system by the end of this year would insure the keeping of records in compliance with requirements laid down in article 9, and for all types of plants inclusive of collection</p>	2010-2011	

	Regulation (EC) No 1774/2002 and in addition for collection centers, collecting and treating certain ABPs intended to be used for the feeding of animals specified in Article 23(2)(c), point 4(b) of Annex IX of the same Regulation.	centres for fur animals, dogs from recognised kennels and maggots for fishing baits. Further, the District Offices will be instructed to focus on commercial documents and records in their future inspections		
9	The competent authority should ensure that dispatch of relevant ABPs and processed products to, and introduction from, other EEA countries is done in accordance with the requirements laid down in Article 8 of Regulation (EC) No 1774/2002.	<p>Compliance with provisions laid down in article 8 are all considered in an application form NFSA provided for import authorisation through the MATS system.</p> <p>All businesses known to NFSA as dealing with ABPs were informed by means of a written letter during summer 2010, about the electronic application forms system accessible in MATS.</p> <p>The letter is included here</p>  <p>infoskriv-biprodukter skjematjeneste(2).do</p> <p>Here is the link to the MATS application forms system: https://www.mattilsynet.no/mats</p>	2010-2011	
10	The competent authority should ensure that ABPs are only dealt with by approved ABPs plants, applying the approval requirements laid down in the Articles 10 to 15, 17 and 18 of the Regulation (EC) No 1774/2002. Furthermore, the competent authority should ensure that approved ABP plants use one of the processing methods laid down in Chapter III of Annex V or adopted in accordance with the procedure referred to in Article 33(2) of the same Regulation.	<p>NFSA is actively working on the production of templates for approval and inspection of all types of by-products plant. Example templates prepared for approval and inspection of processing plant (Article 13, 17), please see comments and attachment to point 6 above.</p> <p>In addition to the template for biogas and composting plants (article 15), also please see our comments on actions taken concerning article 15 (comments on point 13).</p> <p>As mentioned in point 6, we emphasis that these templates will be compiled in our MATS data system and therefore, will secure a unified approval and inspection processes (article 26). Our plan is that they will be ready for use in MATS system at the beginning of next year.</p> <p>The use of templates during next year will most definitely secure the fulfilment of all</p>	2010-2011	

		<p>requirements for internal control (article 25) and processing methods laid down in Chapter III of Annex V, or adopted in accordance with the procedure referred to in Article 33(2) of the same Regulation.</p> <p>However, as far as your concluding comments on NFSAs permission of the use of cat 2 material of fish origin to be ensiled without such rules been adopted in accordance with procedure referred to in article 33(2) of the regulation we would like to point out that the new ABP regulation 1069/2009 will open for maintaining national rules for the ensilage of material originating from aquatic animals in article 15 2 a (iii). Until this will come into force, or we receive the approval of EU (We can expect an answer in May 2011) to use it as an alternative method, we would like to inform you that the use of this method is very limited, but there is an interest for using it as a processing method in biogas plants.</p> <p>You will find the follow up on fish silage cat 2 in the letter below.</p>		
		 <p>Oppfølging ESA inspeksjon 2010 Trorr</p>		
11	The competent authority should ensure full compliance with Article 31 of Regulation (EC) No 882/2004 by issuing conditional approvals only for food and feed business establishments in line with the requirements of the Regulation.	<p>NFSA has opened for the use of conditional approval for ABP plants in June 2008, due to the implementation of the new legislation. A conditional approval is normally 3 months, but should not exceed 6 months.</p> <p>The NFSA Head Office is going to send an instruction related to compliance with art 31 d to all Regional/Districts Offices.</p>	2010-2011	
12	The competent authority should ensure that own check systems are established by the processing plants in accordance with the requirements of Article 25 and that official controls are carried out in	<p>Please see details in attachment to point 6 above, comments and action plan referred to in point 10 above, as NFSAs effort to secure implementation of requirements laid out in article 26 and 25.</p>	2010-2011	

	line with the requirements of Article 26 of Regulation (EC) No 1774/2002.			
13	The competent authority should ensure that the digestion residues and compost, as appropriate, complies with the microbiological standards laid down in Regulation (EC) No 1774/2002 in compliance with Article 15(2)(e) of the Regulation.	<p>In a meeting with the Biogas and Compost Industry on the 19th of Oct 2010, the major issues reviewed included compliance with requirements for processing methods, validation as well as compliance of digestion residues and compost with microbial standards laid down in the regulation. Inspectors are now informed as we recently published the following attached information regarding requirements for compliance with microbial standards on NFSAs internet and intranet :</p> <p><u>Biorest og kompost skal oppfylle mikrobelle krav fastsatt i biproduktforskriften</u></p> <p>However, compliance with this requirement will be further secured when approval and inspections of by-product plants are compiled in the MATs data system, which we hope to be functioning at the beginning of next year.</p>	2010-2011	
14	The competent authority should ensure that all food and feed business operators operate in accordance with the hygiene requirements laid down in Regulations (EC) No 853/2004 and 183/2005.	<p>The NFSA is carrying out a risk based official controls to ensure compliance with the hygienic requirements.</p> <p>The inspection report from the findings in the dairy plant is now available, the report was sent to ESA 29.09.10.</p> <p>The shortcomings related to a slaughterhouse will be followed up and assessed when they apply for a new approval, this is expected to be during November/Desember.</p>	2010-2011-	