COMMISSION REGULATION (EC) No 811/2003

of 12 May 2003

implementing Regulation (EC) No 1774/2002 of the European Parliament and of the Council as regards the intra-species recycling ban for fish, the burial and burning of animal by-products and certain transitional measures

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to the Regulation (EC) No 1774/2002 of the European Parliament and of the Council laying down health rules concerning animal-by-products not intended for human consumption [1], as amended by Commission Regulation (EC) No 808/2003 [2], and in particular Article 22(2), Article 24(6) and Article 32(1) thereof,

Whereas:

(1) Regulation (EC) No 1774/2002 provides for a prohibition on the feeding of animals with processed animal protein derived from animals of the same species. Derogations may be granted in relation to fish after consultation of the appropriate scientific committee.

(2) The Scientific Steering Committee issued an opinion on 17 September 1999 on the risks arising from recycling animal by-products as feed with regard to propagating TSE in non-ruminant farmed animals. It also issued another opinion on 6 and 7 March 2003 on the feeding of wild fishmeal to farmed fish and recycling of fish with regard to the risk of TSE. The Scientific Committee on Animal Health and Animal Welfare adopted an opinion on 26 February 2003 on the use of fish by-products in aquaculture. According to those scientific opinions, the potential risk from recycling fish may be reduced by fulfilling a number of conditions.

(3) Accordingly, a derogation should be granted from the intra-species recycling ban for fish under Regulation (EC) No 1774/2002. In order to avoid a risk to public and animal health, that derogation should be subject to certain conditions.

(4) It is necessary to provide for transitional measures, to allow adequate time for the industry to adjust to the new requirements.

(5) The Scientific Steering Committee issued an opinion on 16 and 17 January 2003 on the safety vis-à-vis TSEs as regards the burial and burning of potentially TSE infected animal materials.

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

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

HAS ADOPTED THIS REGULATION:

Article 1

Transitional measures regarding the intra-species recycling ban for fish

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

Article 2

Derogation from the intra-species recycling ban for certain fish

1. Pursuant to Article 22(2) of Regulation (EC) No 1774/2002, a derogation is granted to Member States with regard to the feeding of fish with processed animal protein derived from the bodies or parts of bodies of animals of the same species.

2. However, the derogation provided for in the paragraph 1 shall not apply to the feeding of farmed fish with processed animal protein derived from farmed fish of the same species.

Article 3

By-products from wild fish

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

(a) for the production of feed for fish; and

(b) as feed for fish.

[1] OJ L 273, 10.10.2002, p. 1.
[2] See page 1 of this Official Journal.

Article 4

Requirements for feed for farmed fish

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

Article 5

Control measures

The competent authority shall take the necessary measures to control

(a) the appropriate processing and use of feed containing processed animal protein derived from the bodies or parts of bodies of animals of the same species;

(b) the animals that are fed with the feed referred to in point (a), including strict supervision of the health status of those animals.

(c) compliance with the requirements of Annex I.

Article 6

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

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

(a) as waste by burning or burial on the premises on which the animal by-products originate;

(b) in a landfill approved under Directive 1999/31/EC; or

(c) as waste by burning or burial at a site which minimises the risk to animal and public health and the environment, provided that the site is located within a range of distance sufficient to enable the competent authority to manage the prevention of the risk to animal and public health and the environment;

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

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

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

Article 7

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

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

Article 8

Burning and burial of bees and apiculture products

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

Article 9

Keeping of records

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

(a) the quantities, categories and species of animal by-products buried or burned;

(b) the date and place of burial and burning.

Article 10

Entry into force

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

It shall apply from 1 May 2003.

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