

Review of Ruminant Protein Regulations

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The closing date for submissions is 15 November 2002

A form to assist you in making a submission commences on page 17. Additional pages may be used and submissions do not need to use this format.

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Contents	Page
1. Purpose	1
2. Background to existing regulations	1
3. Recent developments	2
4. Issues for Review	3
4.1 Controls on specified animal protein	3
4.2 Regulation of slaughter wastewater applied to pasture	8
4.3 Proposed charge for registering a ruminant protein control programme	10
4.4 Proposed change in offence provisions from absolute liability to strict liability	12
4.5 Exemption for certain highly-processed ruminant products	13
4.6 Exemption for protein-free tallow	14
4.7 Use of legislation	15
4.8 Review of present controls	16

1. Purpose

The purpose of this paper is to inform you about the review of the Biosecurity (Ruminant Protein) Regulations 1999 (the regulations). The Ministry of Agriculture and Forestry (MAF) administers the regulations and is conducting the review. MAF wishes to consult you about the matters that are being reviewed and on proposed amendments to the regulations. MAF invites you to make a submission so that your views may be considered.

Amendments to regulations are made by promulgating further regulations that make the required changes. The Biosecurity Act 1993 provides that before recommending the making of regulations the Minister must consult persons representative of interests likely to be substantially affected by the regulations.

2. Background to existing regulations

New Zealand's TSE status

New Zealand livestock is entirely free from bovine spongiform encephalopathy (BSE), scrapie and all other transmissible spongiform encephalopathies (TSEs). New Zealand is classified as a Category 1 country ('BSE free') based on the European Commission report of July 2000. It is important for New Zealand to stay free of these diseases to protect human and animal health and to ensure that international consumers have the confidence to choose to eat New Zealand meat.

The Regulations

The Biosecurity (Ruminant Protein) Regulations 1999 came into effect on 1 January 2000. The purposes of the regulations are:

- to prohibit the feeding of ruminant protein in any form, composition, or admixture to ruminants because of the risk of amplifying and spreading TSEs, such as BSE, by doing so;
- to require operators to prepare, register and implement ruminant protein control programmes; and
- to manage the risk to New Zealand of an outbreak of a TSE.

Label notice for ruminant protein

The regulations require that all ruminant tissue (excluding dairy products) must be excluded from feed given to, or accessible to ruminant animals such as cattle, sheep, deer, goats and alpacas. Feed (and also fertilisers) containing ruminant protein must be labelled: "Notice: not to be fed to sheep, cattle, deer, alpacas, goats, or other ruminant animals."

Registered ruminant protein control programmes

The operator of a diversified milling premises where ruminant protein is used must prepare, implement and register a ruminant protein control programme before undertaking the production of feed intended for ruminant animals. Each programme must specify how the operator will manage and minimise the risk of contamination of such feed by ruminant protein. Each programme must name an independent auditor engaged by the operator. A copy of the auditor's annual verification audit report is provided to MAF. Ruminant feed produced under a registered programme carries a prescribed label notice to show that it may lawfully be fed to ruminant animals.

3. Recent developments

Since the regulations were made three years ago, BSE has been found across the European Union, in several central European countries and in Japan and Israel. Trade in contaminated animal feed is implicated in the recent spread of BSE.

Consumers' confidence in beef has been undermined. Although the BSE epidemic in the United Kingdom was brought under control several years ago, more than a hundred Britons have since died of variant Creutzfeldt-Jakob disease (the human form of BSE) and the number of cases continues to grow.

Scientists have shown, under experimental conditions, that sheep can be infected with BSE through the same contaminated feed that spreads the disease in cattle. Whether any sheep have actually been infected with BSE in the field remains unknown. However the experimental studies have shown that the clinical signs of BSE in sheep closely resemble those of scrapie, a related disease of sheep. Scrapie, unlike BSE, does not affect humans but New Zealand is enhancing its scrapie surveillance programme because of concern in our overseas markets that BSE might possibly be detected in the sheep population before it was detected in cattle. Three thousand sheep brains and 300 goat brains collected all over New Zealand will be tested for both scrapie and BSE every year. This is in addition to the expanded programme for testing cattle for BSE.

New Zealand TSE Programme

Given the recent confirmation of the spread of BSE to several European countries, Israel and Japan, and the hypothesis that BSE might be present in sheep, overseas markets want assurances that TSE-free countries such as New Zealand are nonetheless actively looking for the disease and enforcing prudent measures against any spread.

MAF therefore has instituted the TSE Programme, a collaboration between government departments and the meat and feed industries. The programme has four major components:

- trade risk mitigation: to ensure consumer protection (i.e. TSE-freedom) remains the priority for measures taken in relation to the food supply;
- animal health status: to ensure New Zealand maintains its TSE-free status as recognised by the world organisation for animal health (OIE, Office International des Epizooties);
- imported processed food: to ensure that standards for imported food for New Zealand consumers are appropriate; and

- communications: to deliver accurate and timely information to all interested parties and members of the public.

4. Issues for Review

The review of the ruminant protein regulations has four parts:

- to consider prohibiting the feeding to ruminants of other animal proteins (in addition to ruminant protein) so as to facilitate the screening and testing of feed samples for the presence of illegal ruminant protein. These other proteins are referred to as 'specified animal protein' (section 4.1);
- to put forward for public consultation several amendment proposals developed by MAF since 1999 ('MAF amendments', sections 4.2 - 4.6);
- to decide, in the context of developing new legislation, which of three suitable Acts would provide the best fit for the ruminant protein regulations as a whole ('Use of Legislation', section 4.7); and
- to survey the impact and effectiveness of the existing regulations that came into force on 1 January 2000 ('Review of present controls', section 4.8).

The specific issues relating to each part of the review are set out below, under the following headings:

- Rationale
- Background
- MAF proposal
- Other options; and
- Status quo.

4.1 Controls on specified animal protein

Proposed definition

'Specified animal protein' means protein derived from the tissue of any mammal (other than a ruminant) or any bird (other than eggs and feathers).

Ruminants are excluded from the proposed definition because ruminant protein is already defined in, and strictly controlled by, the regulations. Eggs and feathers are excluded because meals made from these materials can easily be distinguished from meat and bone meal. Poultry feathers are rendered to produce feather meal, a protein-rich feed ingredient that is free of bone fragments, unlike meat and bone meals (MBM) derived from other avian tissues.

Dairy produce from non-ruminant animals, mares' milk for example, would be exempt from the proposed controls on specified animal protein. These proteins come within the statutory definition of dairy produce that is referenced in the current regulations in order to exempt ruminant dairy produce.

Highly processed products derived from or associated with specified animal protein would be excluded, as is discussed (in the ruminant context) in section 4.5 below. Fats would be treated on the same basis as for ruminant tallow as discussed in section 4.6 below.

Rationale

To exclude specified animal protein from ruminant feed in order to facilitate the testing of ruminant feed for the presence of illegal ruminant protein and to increase the effectiveness of the present feed ban.

For New Zealand to maintain international recognition of its TSE-free status it must be able to demonstrate it has an effective feed ban. Therefore, one or more scientifically validated tests will be used to analyse randomly selected samples of ruminant feed and feed ingredients for the presence of ruminant protein or specified animal protein.

Advantages

The immediate advantage to legislating the exclusion of specified animal protein from ruminant feed is to ensure microscopic examination for bone spicules can readily be used for the feed testing programme, either for screening samples or as a standard test. MAF has identified several other advantages that could collectively justify an extension to the present 'ruminant protein to ruminant animal' feed ban.

A wider ban on protein feeding to ruminants would simplify communication and education about safe feeding because the full range of meats and by-products would be captured, not just beef, mutton and venison. On-farm compliance would be easier to achieve in relation to kitchen waste, collected food waste, and the feeding of pet ruminants.

Any contamination of imported fish and plant proteins with ruminant protein would be more easily detected and prosecuted. Mammalian and bird bone fragments can be distinguished from fish bone in prepared samples by means of the typical lacunae (hole) pattern seen under the microscope. The more difficult distinction between mammalian species would not be necessary in order to establish evidence of a breach of the regulations.

Trading partners would be more convinced that New Zealand's BSE-free status was sustainable if a more comprehensive feedban was to be set in legislation. Australia has an animal to ruminant feed ban and the USA and Canada are considering additional safeguards against BSE. The USA bans the use of mammalian proteins other than porcine and equine proteins in ruminant feed.

Disadvantages

Freedom from BSE constitutes an impediment to the proposal to control specified animal protein because no new risk has been identified from the use of those materials. As an international 'gold-standard' for BSE-freedom, New Zealand has least cause to impose new controls on non-ruminant proteins and therefore least room to move. Any restrictions must be closely based on the science of TSEs. The restrictions under consideration do not arise from any new risk of TSEs in ruminants, they must be justifiable in terms of demonstrating that the ban on feeding ruminant protein is being observed. The test for deciding to control the use of specified animal protein is therefore twofold:

- Does the continued use of these animal proteins pose a risk of BSE? – No.

- Does the continued use of these animal proteins hamper control measures against TSEs? – at the present time, yes.

Background

Feed testing

A testing programme for manufactured ruminant feeds was introduced in 2001, but a suitable test specific for bovine or ovine protein had not been validated by July 2002. In the meantime, the sampling programme is continuing according to plan. All samples are being retained in storage while a suitable test is validated.

A European test for the microscopic identification and estimation of constituents of animal origin in feed was established under EU guidelines issued November 1998. The laboratory technician looks for bone spicules and other tissue fragments (muscle fibres, cartilage, horn, hair, bristles, blood, feathers etc) that are characteristic of animal protein. The identification is carried out on the sieve fraction and sediment of prepared samples using stereo and compound microscopes. Bone fragments of mammals and birds can be distinguished from fish, and depending on the experience of the analyst, bone fragments of mammals can be distinguished from birds.

It is possible a new ELISA (enzyme-linked immunosorbent assay) or PCR (polymerase chain reaction) test will become available during the period of this review. MAF is considering an Australian PCR test and an American ELISA at present. Once validated for cooked protein, one or both these species-specific tests could be used as a standard test, either alone or in conjunction with microscopic examination for bone spicules.

International trade in proteins and feed

New Zealand's trade in feed materials that are by-products of processing animal and plant material into food is significant. The following data are from Statistics New Zealand, from the category 'food waste; animal feed', and include pet food as well as compounded animal feed and feed ingredients.

In 2001 New Zealand exported food by-products worth \$209M, of which \$78M was meat, blood, and bone meals (MBM). In contrast to 135,500 tonnes of MBM, manufactured feed exports were minimal: 4,400 tonnes of poultry feed and 5,700 tonnes of unspecified animal feed.

In 2001 New Zealand imported \$132M of food by-products, of which 48 % was pet food, 23 % was soybean residues and 9 % was fish-meal.

Imported soy meal is the main alternative to animal protein in formulating manufactured animal feeds. The 58,000 tonnes imported in 2001 came mostly from USA and Australia.

Nearly 8,000 tonnes of fishmeal was imported in 2001: 70 % from Australia, with Peru and Chile the other main sources. Although New Zealand produces significant quantities of fishmeal, imported product is preferred for livestock feed because it is of low, attested mercury content. The imported meals are derived from small, whole fish of species that are relatively low in the food chain.

No mammalian MBM has ever been imported to New Zealand for animal feed. MBM was imported for fertiliser some decades ago under controlled conditions. A garden fertiliser containing bovine blood and bone is imported from USA.

A small quantity of processed material derived from crops such as rice, copra, oil palm and sugar beet is imported as feed ingredients or, occasionally, in finished compound feed.

Domestic use of animal protein

Ruminants are by far the main source of mammalian rendering material. Most cattle and sheep are subject to ante- and post-mortem inspection by the state veterinary service. The only significant non-ruminant animal in the rendering stream is the pig. There are no stand-alone porcine renderers. About one in four ruminant rendering plants also takes in some porcine material.

MBM produced and sold domestically, about 55,000 tonnes per annum, is generally not differentiated according to animal species. The recent exception is that porcine MBM is not supplied for pig feeds because of the pork industry's own policy against same species feeding.

The effect of renderers producing undifferentiated MBM was that, when the feed industry ceased to use MBM in ruminant feed in 1996, mammalian protein of all kinds was effectively removed from the ruminant feed chain at the same time.

Other mammalian proteins that are by-products of food or pet food processing may be included in MBM used in feed for non-ruminants. These proteins are from species such as horse, donkey, rabbit, hare, possum and wallaby. The list is not open-ended because renderers and pet food manufacturers are prohibited from accepting pet cadavers and zoo animals for processing.

There is one rendering plant that is dedicated to processing poultry material. Otherwise, this material goes to service renderers, as does ratite (emu and ostrich) material. Poultry MBM is not available for inclusion in poultry feed, as a matter of poultry industry (not government) policy. This material is currently used in pet food, and pig and calf feed.

Fish waste is usually rendered in dedicated premises although some meat rendering plants also render fish material.

MAF proposal

MAF proposes to prohibit the feeding of specified animal protein (as defined above) to ruminants in order to facilitate the testing of ruminant feed for the presence of ruminant protein and to strengthen overall compliance with the regulations.

Prohibiting the feeding of specified protein derived from non-ruminant animals such as pigs, horses and poultry (other than eggs and feather meal) would make the microscopic test easier to apply because the technician would not need to attempt to distinguish between bone spicules of different animal species other than between fish and mammal/bird. The presence of material that was either specified animal protein or ruminant protein would be evidence of a breach of the regulations.

Specified animal protein would be prohibited from use in ruminant feed but would not be subject to the same degree of control as ruminant protein. For example, a feedmill that uses pure porcine MBM (e.g. from a renderer that did not process ruminant protein) in non-ruminant feed would not be required to register a programme to manage and minimise the risk of contamination of their ruminant feed products with porcine protein.

The prescribed text for label notices would be unchanged, but the feedmill in the previous paragraph would now need to label non-ruminant feed containing porcine meal as not to be fed to ruminants. The regulations would specify that collected food waste that is sold or distributed as animal feed must be labelled against feeding to ruminants if the presence of meat or meat scraps cannot be ruled out.

Other options

Mammalian to ruminant feed ban

The option of legislating a mammalian to ruminant feed ban would go some way to address the feed testing issue, but would rely on administrative arrangements to minimise the use, if any, of avian MBM in ruminant feed.

As with the MAF proposal, feedmills would continue to have access to all mammalian MBM for non-ruminant feed and fish-meal and feather meal, but also access to avian MBM.

Animal to ruminant feed ban

The option of legislating an animal to ruminant feed ban would include all the controls of the mammalian protein option, together with prohibitions on feeding all forms and species of bird and fish proteins. Potentially, no protein derived from members of the animal kingdom, as opposed to the plant kingdom, would be eligible for feeding to ruminants unless specifically approved. Certain vaccines and 'animal' micro-organism cultures would need to be excluded.

An animal to ruminant feed ban would have an unnecessarily large impact on the feed industry. Fish-meal, for example, is currently included in some ruminant feeds at up to 2 %. Eggs and egg products would also come within the scope of an animal to ruminant feedban. Egg protein is not considered to present a risk of TSEs, and so an exemption would need to be provided in the legislation.

Status quo

The status quo, banning only ruminant protein from ruminant feed, relies on rapid progress in validating a new, economic, stand-alone test that is specific for cooked bovine or ovine protein, and gaining international acceptance for such a test.

Your views

Where would you draw the line in terms of prohibiting other animal proteins from ruminant feed?

What would be the impact on your business, if you could not access:

- Fishmeal?
- Porcine meal?
- Feather meal?
- Poultry MBM?

MAF amendments (sections 4.2 -4.6)

4.2 Regulation of slaughter wastewater applied to pasture

Rationale

To clarify the regulatory framework as it applies to the disposal by irrigation of screened wastewater from the slaughter and processing of ruminants. The regulations were not intended to prohibit the practice, and the BSE-risk associated with it is minor.

Background

Legal clarity is now needed around the practice of irrigating pasture with wastewater from the slaughter board, cutting room and rendering departments of ruminant processing premises. Land treatment of slaughter wastewater containing residual particles of ruminant protein is common practice in New Zealand. While the land disposal route is often preferable, on environmental protection grounds to discharge to streams, its legality in terms of the ruminant protein regulations has been challenged by objectors at resource consent hearings.

The regulations were not, and are not, intended to prohibit the practice. Wastewater was considered by officials during the development of the regulations in 1999, and was raised with the independent BSE Expert Science Panel in 2001. In the view of MAF and the panel, the BSE risk is minor relative to other categories of slaughter waste. Moreover, slaughter waste generally poses a lower order of risk than the risk of contamination of ruminant feed in feedmills or the risk on farms of ruminants consuming feed intended for non-ruminants.

Disposal of slaughter wastewater, as with any water discharge, is subject to a resource consent under the Resource Management Act 1991 (unless it is a conditional use under a regional plan). A range of conditions may be attached to resource consents under the Resource Management Act. For example, there may be a withholding period from grazing or harvesting for feed on general animal health grounds, and various limits on the nitrogen loading of the soil so as to avoid water pollution by leachates.

Other slaughter waste

Slaughter wastewater is distinguished from other forms of slaughter waste because it is less amenable to transport and other disposal methods. It should also be noted that particulate protein is actively removed from wastewater, as far as practicable, by screening or other forms of filtration, and the reclaimed residues are sent for rendering into commercial products.

For comparative purposes, MAF's advice on the surface application of solid slaughter waste materials to pasture land is as follows:

- *Paunch contents*: may be applied to pasture. There are no particular compliance issues in terms of the ruminant protein regulations.
- *Manure*: may be applied to pasture. There are no particular compliance issues in terms of the ruminant protein regulations.
- *Slaughter wastewater treatment plant solids*: may be applied to pasture if the incoming wastewater to be treated has been screened, but disposal onto cropping land or cultivated land is preferable.
- *Blood and bone fertiliser*: MAF supports Meat New Zealand's advice to farmers that ruminant meat, blood, and bone meals are not applied on any paddocks where there is a likelihood that ruminants could graze at any stage in the future. These fertilisers contain the highest concentration of ruminant protein of the range of slaughter waste products but, as noted above, the BSE risk is of a lower order than the risk of contamination in feedmills or incorrect feeding on farms.

MAF proposal

The controls proposed by MAF for the disposal by irrigation to pasture of wastewater from the slaughter, cutting and rendering of ruminants are:

- The wastewater must be treated by screening and the removal of any float material and sediment from save-alls;
- The pasture must not be grazed, or harvested for ruminant feed, at times when the foliage is visibly contaminated with any slaughter wastewater or wastewater residues; and
- The supplier, applicator and farmer (ruminant owner) or forage harvester must take all steps necessary to achieve the purposes of the regulations.

Other options

In order to regulate a more precise regime for the management of land treatment areas in pasture production, MAF would need to receive scientific data about the movement of particulate matter through the pasture canopy onto and into the soil. The data would need to take into account factors such as soil type, potential contamination of new growth by rain splash or contact with standing pasture, natural precipitation subsequent to irrigation, pasture height at irrigation and height at subsequent grazing or cutting.

Status quo

If slaughter wastewater was not to be referenced in the new regulations, then there would need to be better public understanding of the current provision that manages this, and other, unspecified risks associated with ruminant protein. Currently, the regulations impose a general duty of care on affected persons. They must "...generally take all steps necessary to achieve the purposes of these regulations." (regulation 17(g)). This means that persons involved in land treatment must avoid grazing pasture when it is obviously contaminated with wastewater.

4.3 Proposed charge for registering a ruminant protein control programme

Rationale

To establish and specify a charge to be imposed by MAF for assessing, amending and registering a ruminant protein control programme under the regulations. (Ruminant protein control programmes are described in section 2 above.)

Background

The application of charges for the provision of services is now an integral feature of the public sector and biosecurity is no exception. Costs need to be recovered fairly and systematically.

Funding options

The options for cost recovery are:

- from those who benefit from the service;
- from those whose actions give rise to the need for a particular service; and
- from the taxpayer.

The proposed charge is to pay for the review and registration of ruminant protein control programmes. The purpose of ruminant protein control programmes is to provide assurance that steps are taken during the processing of feed to ensure as far as possible that processed feeds for ruminants do not contain meat and bone meal.

The beneficiaries in the first instance from ruminant protein control programmes are the users of protein feeds who can be satisfied that the feeds being fed to ruminant animals do not contain meat and bone meal. The secondary beneficiaries of ruminant control programmes are the consumers of ruminant meat who can be satisfied that in the unlikely event of the presence of a TSE, it is not being recycled through meat and bone meal.

The ruminant protein control programme is needed for those operators who make use of meat and bone meal in their mills. These operators are the exacerbators i.e. those who create the problem that the ruminant protein control programme is designed to solve. Consequently it is appropriate that operators who make use of ruminant protein should pay the charge for ruminant protein control programmes.

The beneficiaries of ruminant protein control programmes would contribute to payment of the charge where operators are able to pass on the charge to the users of protein feeds.

Consequently it is appropriate that operators who use ruminant protein are required to pay the charge because they are themselves exacerbators and they are able to pass some of the charge to beneficiaries.

The advantage of charging operators who use ruminant protein is that the charge is incurred in the market chain at the source of the problem. Operators who use meat and bone meal and produce feed for ruminants create the problem to be solved by the ruminant control programme and pass some of the cost to the beneficiaries of the programme. The charge on these operators would consequently have a beneficial market impact because it would encourage the internalisation of the externalities of using meat and bone meal, leading to increased efficiency in the allocation of resources.

Transaction costs from applying the charge to operators would be minimal because the charge would be applied directly to the source of the cost.

Current government policy is that recourse to taxation should be avoided except where its advantages can clearly be demonstrated. There would be no advantage in taxpayer funding because it would not target either beneficiaries or exacerbators. Taxpayer funding would be divorced from operators who use meat and bone meal and also produce feed for ruminants. Taxation would not lead to internalisation of the externalities of using meat and bone meal and consequently would not lead to increased efficiency in the allocation of resources. There would be no transaction cost efficiencies from using taxpayer funding.

No financial appropriation has been made for administering the regulations. The Biosecurity Act provides that the costs of administering the Act that are not provided for by money appropriated by Parliament shall be recovered from other sources.

MAF proposal

MAF proposes to apply a charge for the administration of programme registrations, including registration of amended programmes and the suspension and revocations of registrations. The charge would be imposed on those feed manufacturers and renderers requesting the registration of a programme or an amended programme. The service they would be charged for is the time required by MAF to assess, register, amend, suspend or revoke the programme.

The proposed charge is based on time incurred at the rate of \$130.00 per hour (GST inclusive). This charge is derived from the salary of MAF biosecurity advisers, the chargeable hours and MAF overhead charges (allocated on chargeable hours). The charge would be similar under each of the Acts discussed in section 4.7 below. The minimum charge under this hourly rate regime would be half an hour (\$65.00). Beyond the initial half-hour processing time will be charged at one quarter of the hourly rate (\$32.50) for every additional 15 minutes or part thereof. Based on experience to date the anticipated time required to assess and register a programme would be between 3 and 5 hours. Consequently the cost would be approximately \$390 to \$650 (GST inclusive).

Operators of programmes are required to notify MAF of any change in circumstance that would prevent the programme from working effectively. MAF services such as receiving information, discussing with operators how their programmes are working, and noting programme features that have been identified for improvement will not be charged.

The proposed charge will have most immediate impact on new operators. The 24 current operators will not be affected until their registered programmes need amendment.

Status quo

To continue the present provision of registration services without charge is unsustainable because it is contrary to the Biosecurity Act 1993 and government policy.

Your views

If you are an operator of a registered ruminant protein control programme we would particularly like your views on the proposed charge, and any alternative charging mechanism.

How significant is this proposed charge compared to:

- The cost of operating your control programme?
- The cost of in-house monitoring of your programme?
- The cost of the annual independent audit of your feed mill?
- The benefit of having access to ruminant protein without the need install a separate production line for non-ruminant feed?

4.4 Proposed change in offence provisions from absolute liability to strict liability

Rationale

To change, at the request of Parliament's regulations review committee, those offence provisions in the regulations that are currently categorised 'absolute liability' offences to those of 'strict liability'.

Background

The regulations currently provide that the following are offences of absolute liability:

- failure of an operator to prepare and submit a ruminant protein control programme for registration (regulation 5);
- failure to produce ruminant feed according to the ruminant protein control programme (regulation 5);
- failure to label, or the mislabelling of any feed or fertiliser to which these regulations apply (regulation 13); and
- failure to comply with labelling specifications (regulation 14).

In August 2000 the Regulations Review Committee reported on its investigation into the Biosecurity (Ruminant Protein) Regulations. Government accepted the Committee's recommendation that MAF consult with the Ministry of Justice about the categorisation of offences in the regulations. MAF and the Ministry of Justice agreed that offences categorised as absolute liability should be reduced to strict liability.

Discussion

An offence of absolute liability would only allow a defendant the defence of not having committed the offence. An offence of strict liability would permit a defendant other limited defences that may be accepted by the Courts. For example, a defendant might be able to prove that they took reasonable precautions and exercised due diligence but the cause of the breach remained outside their control.

MAF considers that this re-categorisation of offences will not compromise enforcement of the regulations.

4.5 Exemption for certain highly-processed ruminant products

Rationale

To exempt the following highly processed ruminant products from the feed ban because they have been recognised by the OIE (Office International des Epizooties) as safe for international trade:

- rennet;
- dicalcium phosphate (with no trace of protein or fat);
- gelatin and collagen (prepared exclusively from hides and skins); and
- peptides with a molecular weight of less than 10,000 Dalton and amino acids.

Background

Rennet is a protein produced naturally in the stomachs of young calves or manufactured from stand-alone microbiological cultures. Rennet is sometimes added to manufactured calf feeds to help develop the digestive system, but the use of natural rennet for this purpose is currently prohibited under the regulations. The international scientific community agrees that natural rennet does not pose a risk of spreading BSE.

Dicalcium phosphate is a white, odourless powder that is often a co-product of gelatine manufacture from animal bones. It is used extensively as an animal feed ingredient in Western Europe. Dicalcium phosphate is also manufactured from mineral rock.

Gelatin and collagen prepared from hides and skins are recognised by the international science community as not posing a risk of spreading BSE.

Peptides comprise two or more linked amino acids. They occur during the digestion of protein by natural enzymes such as pepsin and trypsin. Amino acids, the final product of protein digestion, are essential to animal health. One Dalton is one-twelfth the mass of a Carbon 12 nucleus. The molecular weight of the prion that is believed to cause BSE is in the range 27,000-30,000 Dalton. Peptides for use in ruminant feed must be processed to ensure they are no larger than one-third the size of the BSE infective agent.

MAF proposal

MAF proposes that the following products be excluded from the scope of the regulations:

- rennet
- dicalcium phosphate (with no trace of protein or fat)
- gelatin and collagen (prepared exclusively from hides and skins); and
- peptides with a molecular weight less than 10,000 Dalton and amino acids.

Options

There is no justification for regulating the use of the above products. To adopt a different set of criteria for deregulating these products would be either an ad hoc action, or to emulate a lesser authority than the OIE.

Status quo

To continue to prohibit these products in feed intended for ruminants could put New Zealand in breach of the Sanitary and Phytosanitary (SPS) Agreement. The World Trade Organisation, which administers the SPS Agreement, recognises OIE standards. Under the status quo New Zealand feed exporters could be prevented from compounding feed according to the formulae stipulated by their clients.

4.6 Exemption for protein-free tallow

Rationale

To clearly restrict the present exemption for tallow so that only protein-free tallow may be included in ruminant feeds. The OIE definition of protein-free tallow (maximum level of insoluble impurities of 0.15 percent in weight) will be used.

Background

Tallow and meat and bone meal are the co-products of rendering ruminant tissues. MAF proposes to modify the present exemption for tallow in the regulations to specify the purity of tallow that may be used in ruminant feeds. The OIE international animal health code provides that only protein-free tallow (maximum level of insoluble impurities of 0.15% in weight) and derivatives made from this tallow may be included in ruminant feeds. MAF proposes to adopt the OIE standard.

Tallows produced by the New Zealand red meat industry for use by feed manufacturers comply with the OIE standard.

Options

Tallow is not usually imported for use in animal feed. It may, however, be an ingredient in imported calf milk replacers. Concern has been raised internationally about the possible spread of BSE through trade in calf milk replacers containing contaminated tallow. MAF considers that this risk should be managed under the import health standard for calf milk replacer. In the event that the International Animal Health Code was changed to require a lower threshold for insoluble impurities, the New Zealand regulations could be amended accordingly.

Status quo

Without the amendment, there is potential uncertainty about the use of any 'back-yard' tallow, including tallow from home kill, in ruminant feed. The use of fats and oils from the food industry that may be contaminated by meat scraps is another grey area.

4.7 Use of legislation

The impacts of ruminant protein controls extend well beyond the production and consumption of animal feed. There are issues for biosecurity, food safety, trade, human health, animal feed, pet food, table waste, fertilisers, soil conditioners, waste disposal and land use. No one piece of legislation can manage all these issues. MAF is responsible for administering much of the legislation relating to these issues and ensuring that the legislation is used in an optimal way. This requires MAF to carefully consider the issues to be regulated to ensure that there are no gaps or overlaps and that each issue is managed under the statute where it best fits.

Since 1999, when the ruminant protein regulations were made under the Biosecurity Act 1993, two other pieces of modern, outcome-based legislation have become available to complement the Biosecurity Act in managing the TSE-risks associated with ruminant protein. All three statutes are described below.

Agricultural Compounds and Veterinary Medicines (ACVM) Act 1997

The ACVM Act came into force on 2 July 2001 in respect to products used in the direct management of animals and plants, including animal feed and fertiliser. The ACVM Act repealed the Animal Remedies Act 1967, the Stock Foods Act 1946 and the Fertilisers Acts of 1960 and 1982.

The ACVM Act prevents or manages risks to agricultural security and trade associated with the use of agricultural compounds. Animal feeds are defined as oral nutritional compounds. Oral nutritional compounds are exempt, under the Agricultural Compounds and Veterinary Medicines Regulations 2001, from registration under the principal Act. This exemption is subject to conditions relating to label information, fitness for purpose and feed additives. BSE is a feed-borne disease and additional conditions could be prescribed using ACVM regulations.

Animal Products Act 1999

The Animal Products Act 1999 replaces the Meat Act 1981 and will eventually also replace the Dairy Industry Act 1952. The Animal Products Act is primarily concerned with animal products consumed or used by humans or animals. The risk management system it establishes recognises the importance of consumer protection as well as New Zealand's export trade in animal material and products. All animal products traded and used must be 'fit for intended purpose' and therefore meet New Zealand animal product standards and specifications. The risk management system potentially applies anywhere in the value chain from production, through processing to the market place. It provides for the effective and efficient management of known biological, chemical and physical hazards that might present a risk to humans and animals irrespective of where in the production/processing chain they occur; and facilitating access to overseas markets.

The ACVM and Animal Products Acts are administered in the New Zealand Food Safety Authority, a semi-autonomous body attached to MAF. The ACVM Act is a 'tool box' that supports both the Animal Products and Biosecurity Acts.

Biosecurity Act 1993

The Biosecurity Act provides a framework for central government, regional councils and industry groups to exclude, eradicate and effectively manage pests and unwanted organisms. Biosecurity activities are aimed at providing protection from the risks posed by organisms to the economy, the environment, and people's health. TSEs are unwanted organisms (and notifiable organisms) under the Biosecurity Act. TSEs are excluded from New Zealand through import health standards that curtail imports containing, or exposed to, ruminant protein and by border controls on inbound goods and passengers.

The Biosecurity Act is administered in the MAF Biosecurity Authority.

MAF's opportunity

The review is an opportunity for MAF to consider how best to use these complementary statutes to provide the most effective range of controls on ruminant protein and so minimise the risk of an outbreak of a TSE. While this paper refers, for convenience, to regulations and proposed amendments to regulations, that usage is not intended to preclude consideration of other regulatory instruments such as tertiary legislation under the Animal Products Act, for example.

4.8 Review of present controls

Your feedback on the impact of the current regulations during the last two and a half years will assist MAF to develop practicable policies that address the issues in the present review.

In recalling the impact of regulations, you may wish to distinguish between the two ways that regulations impact on business. Firstly, there is the direct regulatory cost of meeting the obligation imposed, e.g. substituting plant protein for ruminant protein in feed formulations. Secondly, there are the business compliance costs that are incidental to the obligation, such as paperwork, process upgrades, information costs and staff time.

MAF PUBLIC DISCUSSION PAPER NO. 34: REVIEW OF RUMINANT PROTEIN REGULATIONS

SUBMISSION FORM

Office use ONLY
Submission number
Date received

This form is included to assist you. Submissions in another format are also welcome, as are comments about any aspect of the regulations and the review.

Please note that your submission is public information. Submissions may be the subject of requests for information under the Official Information Act 1982 (OIA). The OIA specifies that information is to be made available to requesters unless there are sufficient grounds for withholding it, as set out in the OIA. Submitters may wish to indicate grounds for withholding specific information contained in their submission, such as the information is commercially sensitive or they wish personal information to be withheld. Any decision to withhold information requested under the OIA is reviewable by the Ombudsman.

Name:	
<i>(or attach your business card and sign here)</i>	
Organisation/Company:	
Address:	
Phone:	
Email:	
Fax:	

Please send your submissions to:

Don Crump
 MAF Policy
 PO Box 2526
 WELLINGTON

Email: crumpd@maf.govt.nz
 Fax: (04) 474 4265

Submissions close 5pm, Friday 15 November 2002

In your submission, you may wish to simply refer to an issue or proposal by its section number. Key sections of the discussion paper are referenced in the following checklist of issues:

<ul style="list-style-type: none">• Controls on use of <u>specified animal protein</u> in ruminant feed (section 4.1)
<ul style="list-style-type: none">• Land treatment of slaughter wastewater (section 4.2)

- MAF administration charge for registering ruminant protein control programmes (section 4.3)

- Exemption for rennet, dicalcium phosphate, gelatin, collagen, peptides and amino acids (section 4.5)

- Exemption for tallow restricted to protein-free tallow (section 4.6)

- Impact and effectiveness of the existing controls, the Biosecurity Ruminant Protein Regulations, since 1999 (section 4.8)