

Title: Impact Assessment of England only domestic legislation implementing directly applicable EU Legislation: The Animal By-Products Regulations No. 1069/2009 & No.142/2011 Lead department or agency: Department for Environment, Food and Rural Affairs Other departments or agencies:	Impact Assessment (IA)
	IA No: DEFRA1003
	Date: 08/04/2011
	Stage: Development/Options
	Source of intervention: Domestic
	Type of measure: Secondary legislation
	Contact for enquiries: Neil Leach 020 7238 6509

Summary: Intervention and Options

What is the problem under consideration? Why is government intervention necessary?

Animal By-Products (ABPs) can present a risk to human and animal health, and their disposal has been controlled for many years. Although generally effective, EU ABP Regulation 1774/2002 was reviewed in 2005 to update, simplify, and remove burdens. This resulted in the new Animal By-Products Regulation (EC) No.1069/2009 and accompanying Implementing Regulation No.142/2011 (The EU Regulations) which came into force on 4 March 2011. This IA considers the impact of the EU Regulations, of the England only domestic SI No. 2011/881 (which provides enforcement powers and provides for national measures), and of the derogations available under the EU regulation. Similar legislation is in place in the rest of the UK.

What are the policy objectives and the intended effects?

The objectives of the new EU ABP Regulation and the domestic legislation to implement it are to introduce a set of updated rules on ABPs providing legal certainty, simplified requirements, and reductions in the burdens on operators. It also adapts current requirements in line with advancements in science and technology, and updates the categorisation of ABPs according to the risk they pose. The effect will be to make ABP controls more effective and efficient, while ensuring continued protection of public and animal health and food safety.

What policy options have been considered, including any “alternatives to regulation”. Please justify the preferred option below.

During its review the Commission considered various options for updating the EU ABP legislation, such as retaining the current rules unchanged, or adopting non-regulatory tools, but concluded that regulatory change was most likely to provide effective solutions. The Government agrees with this analysis. In order to minimise the impact on business, when putting in place replacement domestic legislation the Government has imposed the minimum burden on industry consistent with meeting its obligations to enforce the EU ABP Regulation. Apart from one derogation which has been implemented in part, the Government have taken advantage in full of the potential derogations available to member states attaching only the conditions required under the EU regulation to ensure public and animal health is protected

Will the policy be reviewed? It will be reviewed	If applicable, set review date 03/2016
What is the basis for this review? PIR	If applicable, set sunset clause date
Are there arrangements in place that will allow a systematic collection of monitoring information for future policy review?	Yes

Ministerial Sign-off For consultation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, a) it represents a reasonable view of the likely costs, benefits and impact of the leading options

Signed by the responsible Minister: Date:.....

Summary: Analysis and Evidence

Policy Option 1

Description:

Price Base Year 2010	PV Base Year 2011	Time Period Years 5	Net Benefit (Present Value (PV)) (£m)		
			Low: £170m	High: £134m	Best Estimate: £152m

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	£0.3m	£0.02m	£0.4m

Description and scale of key monetised costs by 'main affected groups'

The main element that has been costed is the registration for operators and handlers of animal by-products. The transition cost in the first year to the Animal Health and Veterinary Laboratories Agency will be about £300,000 and about £10,000 a year thereafter. The cost of registration to users will be about £40,000 in the first year and £2,000 thereafter.

Other key non-monetised costs by 'main affected groups'

The regulation is broadly deregulatory affecting a diverse range of industrial sectors and some members of the public.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional	£29m	£134m
High	Optional	£38m	£170m
Best Estimate		£33.5m	£152m

Description and scale of key monetised benefits by 'main affected groups'

The main monetised benefits affect respectively the small retail sector, the shell fish processing sector and farms. Benefits take the form of cost reductions for the affected sectors. In the retail sector this arises from food waste disposal costs and amounts to about £28m a year. In the case of shellfish shells it arises from the disposal of shell material and comes to about £4.4m a year. The farm sector will gain from being able to dispose of certain waste on farms by about £1.1m annually.

Other key non-monetised benefits by 'main affected groups'

The regulation is broadly deregulatory affecting a diverse range of industrial sectors and some members of the public. Many of the non-monetised benefits are expected to be quite small. Attempts were made to monetise them but in many cases this has not been possible without disproportionate effort. Benefits are described and a broad qualitative net impact estimated in the table below.

Key assumptions/sensitivities/risks

Discount rate (%) 3.5

The level of benefits actually achieved are dependent on take up by the affected sectors. We have made what we regard as realistic assumptions.

Direct impact on business (Equivalent Annual) (£m):			In scope of OIOO?	Measure classified as
Costs: £1m	Benefits: £30m	Net: £29m	Yes/No YES	IN

Enforcement, Implementation and Wider Impacts

What is the geographic coverage of the policy/option?	England				
From what date will the policy be implemented?	04/03/2011				
Which organisation(s) will enforce the policy?	Animal Health/local authorities/FSA				
What is the annual change in enforcement cost (£m)?	broadly zero				
Does enforcement comply with Hampton principles?	Yes				
Does implementation go beyond minimum EU requirements?	No				
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)	Traded:		Non-traded:		
Does the proposal have an impact on competition?	Yes				
What proportion (%) of Total PV costs/benefits is directly attributable to primary legislation, if applicable?	Costs:		Benefits:		
Annual cost (£m) per organisation (excl. Transition) (Constant Price)	Micro	< 20	Small	Medium	Large
Are any of these organisations exempt?	No	No	No	No	No

Specific Impact Tests: Checklist

Set out in the table below where information on any SITs undertaken as part of the analysis of the policy options can be found in the evidence base. For guidance on how to complete each test, double-click on the link for the guidance provided by the relevant department.

Please note this checklist is not intended to list each and every statutory consideration that departments should take into account when deciding which policy option to follow. It is the responsibility of departments to make sure that their duties are complied with.

Does your policy option/proposal have an impact on...?	Impact	Page ref within IA
Statutory equality duties¹ Statutory Equality Duties Impact Test guidance	No	
Economic impacts		
Competition Competition Assessment Impact Test guidance	Yes	9
Small firms Small Firms Impact Test guidance	Yes	9
Environmental impacts		
Greenhouse gas assessment Greenhouse Gas Assessment Impact Test guidance	No	
Wider environmental issues Wider Environmental Issues Impact Test guidance	Yes	9
Social impacts		
Health and well-being Health and Well-being Impact Test guidance	No	
Human rights Human Rights Impact Test guidance	No	
Justice system Justice Impact Test guidance	Yes	
Rural proofing Rural Proofing Impact Test guidance	Yes	9
Sustainable development Sustainable Development Impact Test guidance	Yes	9

¹ Race, disability and gender Impact assessments are statutory requirements for relevant policies. Equality statutory requirements will be expanded 2011, once the Equality Bill comes into force. Statutory equality duties part of the Equality Bill apply to GB only. The Toolkit provides advice on statutory equality duties for public authorities with a remit in Northern Ireland.

Evidence Base (for summary sheets) – Notes

Use this space to set out the relevant references, evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Please fill in **References** section.

References

Include the links to relevant legislation and publications, such as public impact assessments of earlier stages (e.g. Consultation, Final, Enactment) **and those of the matching IN or OUTs measures.**

No.	Legislation or publication
1	ABP regulation 1069/2009: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:300:0001:0033:EN:PDF
2	ABP implementing rules 142/2011 http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:054:0001:0254:EN:PDF
3	Consultation on revised ABP regulation http://defra.gov.uk/corporate/consult/animal-byproducts/index.htm
4	The ABP Enforcement (England) regulations 2011/881 http://www.legislation.gov.uk/uksi/2011/881/contents/made

+ Add another row

Evidence Base

Ensure that the information in this section provides clear evidence of the information provided in the summary pages of this form (recommended maximum of 30 pages). Complete the **Annual profile of monetised costs and benefits** (transition and recurring) below over the life of the preferred policy (use the spreadsheet attached if the period is longer than 10 years).

The spreadsheet also contains an emission changes table that you will need to fill in if your measure has an impact on greenhouse gas emissions.

Annual profile of monetised costs and benefits* - (£m) constant prices

	Y ₀	Y ₁	Y ₂	Y ₃	Y ₄	Y ₅	Y ₆	Y ₇	Y ₈	Y ₉
Transition costs	0.3									
Annual recurring cost	0.04	0.02	0.02	0.02	0.02					
Total annual costs	0.34	0.02	0.02	0.02	0.02					
Transition benefits										
Annual recurring benefits	33.5	33.5	33.5	33.5	33.5					
Total annual benefits	33.2	33.5	33.5	33.5	33.5					

* For non-monetised benefits please see summary pages and main evidence base section

<http://archive.defra.gov.uk/foodfarm/byproducts/documents/abp-ia-110405.xls>

Evidence Base (for summary sheets)

Problem under consideration

1. The EU Animal By-Product Regulations control the use and disposal of animal by-products (i.e. entire bodies, parts of animals, and products of animal origin) not intended for human consumption. The regulations have a very wide scope, covering all animal products including meat, fish, milk and eggs when they are not intended for human consumption, and other products of animal origin including blood, hides, feathers, some shells, wool, bones, horns and hoofs. In addition, they cover carcasses of fallen stock on farms, pet animals, and wild animals where they are suspected of being diseased. They also control the use of ABPs- for example as feed (including pet food), fertiliser and for technical products, and lay down rules for their transformation through composting and biogas and their disposal via rendering and incineration. The regulations also prevent catering waste being fed to livestock.

2. The Animal By-Products (Enforcement) (England) Regulations 2011 (SI 2011/881) provide for enforcement of the EU Regulations in England. Similar legislation applies in the rest of the UK.

3. The previous EU ABP Regulation was introduced in 2002 in response to a number of crises affecting the safety of public and animal health as regards products of animal origin - linked in particular to Transmissible Spongiform Encephalopathies, dioxin contamination, and outbreaks of Classical Swine Fever and Foot and Mouth Disease. This regulation consolidated, simplified and replaced 19 previous legal acts. It also introduced stricter rules for the approval of certain premises, the channelling and traceability of ABPs and controls based on risk categories for different types of ABP in order to guarantee the safety of final products intended for feed or technical uses.

4. In 2005 the Commission submitted a report to the European Parliament and Council reflecting on the experience of Member States in implementing the regulation. The report said that although the legislation was working well and generally met its overall objectives, there were areas where changes need to be considered in order to update the legislation and to provide legal certainty, simplify it and thereby reduce burdens. It also recommended that the regulation should to be updated to reflect new scientific/technological/practical experience since its adoption. For example, the products and industries in relation to ABPs was wider ranging than foreseen by the legislators at the time of the adoption of the Regulation; and further information on the risks posed by certain ABP material and the effectiveness of treatment standards in producing a "safe" product has now become available.

5. The Commission issued a proposal to revise the EU Regulation to address these identified shortfalls, and after extensive consultation the revised Regulation was adopted in April 2009, following a first reading agreement between the European Council and the European Parliament. The accompanying technical details (Implementing Rules) for the Regulation were agreed in October 2010 but not published until February 2011. Both Regulations entered into force on 4 March 2011. The EU Regulations required enforcement provisions in domestic legislation to be put in place by the same date.

Rationale for intervention

6. To address this requirement in England, a Statutory Instrument (SI) was put in place to enforce the directly applicable requirements of the EU Regulations. The EU Regulations also give member states discretion to put in place national controls, and for competent authorities to authorise derogations in certain circumstances, and powers to do this are provided for in the SI. Similar domestic legislation is in place in the rest of the UK.

Policy objective

7. When putting in place domestic legislation to implement the EU Regulations, the Government's intention was to impose the minimum burden on industry consistent with meeting its obligations to enforce the EU Regulations, by taking advantage of all the potential derogations available to Member States unless there were public & animal health issues which would outweigh the potential benefits.

Approach to assessing costs, benefits and risks

Costs and benefits

8. The proposals set out in this Impact Assessment are broadly deregulatory in nature with benefits accruing from a number of derogations. Cost reductions are counted as benefits and any increase in disease risks would be counted as potential costs. It is a requirement of the directly applicable EU regulation that the derogations which are applied have conditions attached which ensure public and animal health are protected. The cost of the conditions which have been applied cannot therefore be separated from the derogation itself. However, Defra has applied the conditions in a way which impose the minimum burden to industry (and are in any case very small in their effect) and that does not increase the overall level of disease risk compared to now. The NPV in the table above represents the net benefits from applying the EU regulation 1069/2009, including derogations, compared to the applications of the previous EU regulation 1774/2002

Risks

9. When considering the impact of the new regulations, we have carefully looked at any potential increase in disease risk and impact on public & animal health of implementing the potential derogations and national rules open to us. In most cases no increased disease risk was identified. In a number of areas formal veterinary risk assessments were used to assess any risks and to inform our approach to controlling them. Most of the veterinary risk assessments undertaken by Defra are qualitative in nature rather than explicitly quantitative, and that is the case with respect to the risk assessments undertaken in connection with this regulation (available on request). As a result we are not able to quantify (and therefore monetise) the change in disease risks and associated costs. However, our aim as described above) has been to keep the overall level of disease risk broadly neutral so this does not have an impact on the cost benefit analysis. Only in one case where an unacceptable increase in risk had been identified from implementing the derogation in full we decided to implement this only in part (disposal on site of material arising from on farm birth or surgical intervention). In certain others there is a provision to allow additional restrictions to be imposed should a serious disease risk emerge. In most cases the appropriate conditions attached to the derogations are not required to be included in the statutory instrument and will be set out in authorisations made by the Secretary of State (SoS) with guidance published on the Defra/Animal health websites on good practice to further mitigate any risks.

Impact Assessment detail

10. This Impact Assessment summarises the overall requirements of the new EU Regulations. The IA has been divided into two areas- section 1 looks at the impact of the EU Regulations (which when originally proposed were the subject of a partial IA, which this IA updates); and section 2 considers the domestic SI and discretionary national measures, and derogations that the competent authority may authorise. The impacts of these are set out in a table at the end of the section.

Section I: EU ABP Regulation- update on options & issues identified in earlier partial impact assessment and outcome in EU ABP Regulation 1069/2009

11. The earlier version of this partial impact assessment looked at the impact of the European Commission's initial proposal for a revised EU ABP regulation and highlighted five main areas identified by the Commission for change, and detailed the Government's initial views on the Commission's proposed approach to these changes.

The five areas were:

- a) clarifying the scope of the regulation in relation to end of the ABP life cycle;
- b) application of the regulation to wild game;
- c) updating risk categorisation of some ABPs;
- d) duplication of approvals for certain premises; and
- e) derogations for research and collection of ABPs with regard to human health & safety and natural disasters.

In addition, four areas of particular importance to the UK were also analysed further:

- a) the burning of tallow,
- b) the disposal of fallen stock,
- c) the disposal of fish material at sea, and
- d) the disposal of former foodstuffs.

12. An update on these areas is set out below.

- a) Clarifying the scope of the regulation- end of the ABP life cycle:** The rules in the 2002 EU ABP Regulation were not clear in some places about when material which had been processed into a product ceases to be a controlled ABP (for example finished petfood). This legal uncertainty resulted in inconsistent enforcement, distortion of competition, and in some cases application of disproportionate rules when there was negligible risk to health. **Preferred Option:** The Government supported the introduction of an end point in the life-cycle of ABPs which determine when the Regulation no longer applies.

Impact: Potentially several sectors impacted, including pharmaceuticals, oleochemicals, wool industry, pet food manufacturers and tanneries. **Benefits** will be greater legal clarity which will potentially remove some direct burdens on industry. We have not identified any new **costs** to industry from this change.

Overall impact is: Small benefit.

- b) Wild Game:** The previous ABP Regulation did not cover ABPs derived from wild game processed in Approved Game Handling Establishments (AGHEs). This absence of ABP controls posed a potential risk to public & animal health. **Preferred Option:** The Government agreed that these ABPs should be covered by the ABP Regulation to ensure consistency with Community Food Hygiene Legislation.

Impact: AGHEs affected. There are fewer than 100 AGHEs in the UK. Their total annual throughput is about 80,000 large animals (mainly deer and boar) and about 3 million birds and rabbits. This provision will be a new **cost** to AGHEs, who will now have to dispose of ABPs in accordance with the Regulations. However, this will be offset by the new **benefit** that this material can now be sold e.g. for pet food.

Overall impact is: Small cost & benefit- no overall change

- c) Re-categorisation of ABPs in proportion to risk:** This includes blood from young ruminants which have passed a TSE test, day old chicks, invertebrates and casein. These materials can now be used for various purposes such as livestock feed, pet food/fish food, and cosmetics. **Preferred Option:** The Government agreed that the reclassification of certain low risk ABPs from category 2 to category 3 (Category 1 is very high risk, category 2 high risk, and category 3 is low risk) would usefully increase the scope for their usage.

Impact: Producers and users of invertebrates for feed will be affected. Small **benefit** of wider economic uses of these by-products without significant increase in risks. No **costs** identified.

Overall impact is: Small benefit

- d) Duplication of approvals for some types of premises:** The relationship between the previous ABP Regulation and other Community sector legislation was not always clear and in some cases overlapping. As a consequence, there were legal uncertainties in the application of requirements of similar objectives. **Preferred Option:** The Government supported changes in the EU Regulations which removed the need for dual approvals and reduced administrative burdens. The EU Regulations now require all plants handling ABPs to be *registered* under the ABP Regulation- e.g. some operators will need to be registered *instead of* approved which will be a benefit. However, some operators who are currently not approved or registered will now need to be registered; e.g. *transporters* of ABPs, imposing a small additional cost.

Impact: Premises handling ABPs, and ABP transporters will be affected. There will be in some cases a small **benefit** for premises currently 'approved' to handle ABPs who will now only need to be registered. In other cases there will be a small new **cost** to currently unregistered premises that handle or transport ABPs, and to Animal Health who will register these premises.

Overall impact is: Broadly neutral.

e) Derogations for research, collection of ABPs with regard to human health & safety & natural disaster: *The latest position on these derogations and their proposed application in domestic legislation are described in more detail in the table of impacts below.*

f) Interaction of the EU ABP Regulations & the Waste Incineration Directive (WID) with regard to the burning of tallow: The previous ABP Regulation required incineration of tallow to be carried out in compliance with WID. The rules did not provide clear guidance to regulators on the circumstances where tallow and other ABPs/derived products should be either regarded as being used as fuel for combustion (where WID would not apply), or disposed of as waste either by incineration or with energy recovery in a co-incineration process (where WID would still apply). **Preferred Option:** The Government supported the automatic reference to WID compliance being removed from the new EU Regulations and provision made for ABPs (including tallow) to be used as a fuel for combustion. However, the Government considers the wording in the new EU Regulations as insufficient for providing legal certainty about the circumstances when burning of tallow and other ABPs would be regarded as a use for fuel and where therefore there will be no longer a need for compliance with the WID. The Government wants the Commission to come forward with proposals which would provide detailed rules for combustion of ABPs as fuel, and guidance providing further clarification on when burning of tallow and other ABPs would be regarded as a waste disposal operation & subject to WID.

Impact: Rendering industry and other potential operators wishing to use ABPs as fuel will be affected. **Benefit** of using tallow for fuel. However few rendering plants have implemented WID, so any benefit will be from not having to comply in the future. NB: Changes to the ABPR alone will not remove the need for compliance – parallel changes will also be needed in waste legislation. No **costs** identified.

Overall impact is: Small benefit

g) Disposal of fallen stock including horses: The latest position on disposal of fallen horses is set out in the table of impacts below. The previous regulation does not permit the use of bio-reducers (vessels for storing animal carcasses pending disposal) as a means of collection & temporary storage of fallen stock. The Government wishes to encourage research into this area with the aim of getting these approved for use and so giving farmers further choice when disposing of their fallen stock. **Preferred Option:** The Government supported changes to the EU Regulations which included provisions which would make it more straightforward to approve the use of bio-reducers for on-farm storage of fallen stock pending collection.

Impact: Livestock farmers, Local enforcement authorities, fallen stock collection and disposal sector will be affected. Potential **Benefit** to some farmers who may be able to use bio-reducers in future to reduce their costs of fallen stock disposal.

Overall impact is: Potential small benefit.

h) Disposal of diseased sea fish: The previous position was that material from the on-board evisceration of fish showing signs of disease, including parasites, communicable to humans could be disposed of at sea. At first the Commission's intention was that sea fish showing such signs of disease should be brought ashore for disposal. **Preferred option:** The Government did not support this position, as the cost implications for the fishing industry would have been significant and the requirements difficult to enforce with no benefit to health. The issue was shelved in regulation 1069/2009 pending further evidence of the effectiveness of such measures

Impact: Issue shelved- no change.

- i) **Disposal of Former Foodstuffs:** There was a derogation that allowed disposal of former foodstuffs to authorised landfill under controls set by the Member States. **Preferred Option:** The Government agreed that should still be permitted under the new EU Regulations and a provision is available in regulation 1069/2009.

Impact: No change.

Section II: Domestic SI and areas of national discretion- enforcing and implementing regulation 1069/2009 in England

13. Regulation 1069/2009 is directly applicable in all Member States. However, it does provide for certain areas of national discretion and derogations (listed in the table of impacts below). This section is about the impact of our domestic legislation enforcing the EU Regulations, the national controls and derogations that can be authorised under the EU Regulations, and the Government's proposed approach to implementation and enforcement in areas where discretion is available.

14. The new EU Regulations give rise to a number of diverse impacts in various sectors associated with use and disposal of animal by-products. This diversity, lack of relevant data concerning the affected sectors and individuals, and uncertainty about take up of derogations means that the impacts have been very difficult to quantify in any detail, without recourse to extensive, time consuming and expensive public surveys. However, where it is possible to make informed estimates we have done so (see para 24 onwards below). Broadly speaking the measures should enhance competition since they tend to be deregulatory in nature. They therefore allow a wider range of routes for disposal, and profitable use of animal by-products and the technologies for processing them. It is difficult to be precise about uptake in specific cases but the existence of a wider range of choice should stimulate fair competition.

15. In terms of the other specific impacts at the foot of Page 3 there is likely to be some impact- for example in the areas of small firms, the environment and the rural economy, but these are similarly difficult to quantify, are likely to be minimal, and it would take disproportionate effort to assess them. Therefore no detailed analyses have been possible on these in the limited time available. Instead, judgements based on consultation responses and sectoral knowledge have determined our position.

16. The Commission experienced similar problems in quantifying its own impact assessment when making the initial proposal to amend the EU Regulations- there is a lack of data on the volumes and price effects as the impacts tend to be on sectors where such data is not collected. In attempting to quantify the impacts of the new EU Regulations we have consulted industry on a number of occasions, through formal and informal consultation exercises, by direct approaches to relevant industry bodies, and via our website, where we have highlighted issues upcoming, and asked for feedback from those who would be affected. In considering the way forward, our default assumption has been that we should maximise the use of derogations and areas of national discretion in order to impose the minimum burden on operators and enforcement bodies.

Results of consultations

17. **ABP sector, Landowners/farming community, food producers:** In general the spectrum of industries handling ABPs have been positive about the changes to ABP rules, which in many cases open up new opportunities to convert animal waste products which currently go for disposal into useful by-products such as compost or energy sources.

The newly revised EU Regulations also include some useful deregulatory provisions which benefit farmers and landowners as well as other sectors handling ABPs (e.g. retailers) particularly in relation to some of the potential derogations (not all directly set out in the SI, but addressed in subsequent authorisations for which the SI provides powers)- e.g. in relation to relaxing controls on use of colostrum, unprocessed wool and the application of certain by-products on the land such as shellfish shells and egg shells, and the potential to dispose of ABPs arising from surgical intervention or birth of animals on farm. Responses from the farming community have in general been positive.

Areas given special consideration

18. In most cases the impact of the changes brought about by the new EU Regulations are expected to be small. However, there are some areas where we have had to consider whether we might want to limit the way in which we apply the potential derogations, or approach areas of national discretion; either because of the animal and public health risks, because the sectors affected do not necessarily want the derogations, or because it may cause more work for enforcement bodies and the cost to these will be disproportionate to the benefit.

19. With regard to allowing **feeding of a wider range of material to pets**, there were conflicting views raised. The pet food industry voiced strong arguments (principally on hygiene and food safety) and also had concerns around the potential impact of this on their businesses. Balanced against this, pet owners would potentially have a cost benefit from being able to obtain cheaper material to feed to their pets. To assess the risks on this issue, a veterinary risk assessment was conducted. Following consideration of this, Government have decided that such feeding should be permitted subject to guidelines which protect animal and public health as required by the EU regulation.

20. On the derogation relating to **feeding certain ABPs to wild animals**, it was agreed that this should be permissible with the exception of feeding ABPs to wild boar (as in this case the risk from such feeding would outweigh any benefit). Similarly, when considering the **disposal on site of material arising from on farm birth or surgical intervention** on live animals, a veterinary risk assessment showed unacceptable risks of disease from allowing disposal of fetuses and placenta on site. However, provided the material surgically removed came from otherwise healthy animals (e.g. material resulting from castrations or amputations, etc) and was disposed of in accordance with guidance on safe disposal and in compliance with environmental controls, veterinary views were that permitting the latter to be disposed of on-farm by burial or incineration would not increase the associated health risks. This was also the view taken on feeding of raw colostrum obtained from animals on one farm to animals on another farm- that it was acceptable providing that there were appropriate controls in relation to TB related risks, with safeguard powers to prevent such feeding in case of suspicion and/or confirmation of an outbreak of a notifiable disease e.g. FMD, brucellosis or enzootic bovine leukosis, and that farmers should be aware of other potential disease risks associated with supply of raw colostrum for animal feeding, such as Johne's disease, classical scrapie, Bovine Viral Diarrhoea and zoonotic organisms, e.g. Salmonella, E.coli, Campylobacter, etc.

21. On the issue of **home composting**, although there were no direct changes in EU rules, domestic legislation which has previously permitted composting without ABP rules to take place only on the premises of origin have been relaxed. This covered domestic garden composting and other premises such as schools, hospitals, prisons etc. However, because it did not permit off-site disposal, it particularly restricted small-scale community composting or anaerobic digestion projects, which were then required to apply to Animal Health be a fully approved premises. Permitting the exception to allow for off-site disposal in certain situations where livestock cannot gain access will be of significant benefit to such small scale and neighbourhood composting and anaerobic digestion projects, who may be able to run their schemes without requiring full approval from Animal Health.

22. The issue with the biggest potential impact is the new derogation permitting **small quantities** (20kg p/w, or 50kg where the Member State can provide detailed justification) of ABPs to be disposed of outside the Regulation. As anticipated the final EU implementing rules restrict this derogation to those generating small quantities of food waste containing ABPs, i.e. low risk category 3 material, to be disposed of with other general waste. Our consultations have showed that in principle this derogation will be of considerable short term financial benefit to small retailers and food manufacturers (>£30 million p/a). Our view is that although the derogation would potentially increase by a small amount the quantity of food waste going to landfill, this would not be significant (with the impact on greenhouse gas omissions also being minimal) and in any case would only be in the short term, as most retail outlets are moving away from use of landfill given the economic drivers in place to progressively use more sustainable alternative routes such as anaerobic digestion and composting. We have consulted with industry, who have said they are content with the 20kg threshold and have not sought to make a case for particular circumstances where a 50kg threshold would be appropriate. The EU regulation does not permit use of the higher threshold without detailed legal justification requiring approval by the Commission – conditions which do not apply in the UK. Therefore Government will implement this derogation using the 20kg limit.

23. Finally, **on enforcement costs**, we will be enforcing by the same criminal sanctions as were previously in place under (EC) 1774/2002, i.e. on summary conviction, to a fine not exceeding the

statutory maximum or to imprisonment not exceeding three months, or both; or on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or both. Under the previous ABPR regime all sanctions were criminal; we therefore envisage zero new impact on resources and correctional services costs.

A comprehensive table of impacts (cost/benefits) for all these options can be found attached

Assessing cost and benefits and One In One Out considerations

24. Below are sets out in more detail the derivation of costs and benefits for quantifiable measures within the regulation. [Item numbers refer to the table of impacts attached.]

1. New Provision/Derogation (NB in table of impacts this refers to certain registered operators only)

Cost of Registrations

The directly applicable EU regulation requires with certain limited exceptions an operator who is not already approved and handles ABPs to be registered by the competent authority. In addition to the costs below there will be an administrative cost to Animal Health in setting up and running a registration system estimated at around £300,000 in first year with ongoing costs of around £10,000 thereafter.

The exact numbers of operators needing to register is not known with any certainty. We have made reasonable assumptions below. Registration will be through a simple on line form. The hourly cost is based on non-government officer (including 30% overhead). Following the first year it is assumed that a small number (5%) of new users will need to register each year.

Description of activity	Nos registering	Cost per hour	Time taken	Cost in first year	Cost in subsequent years
Operators handling ABPs and derived products	5,000 to 10,000	£16.20	20 minutes	£27,000 to £54,000	£1,350 to £2,700

4. Burial of Equidae

Currently pet horses that die can be buried but non-pets have to be removed and incinerated. The derogation from the new regulation allows for all horses to be buried when they die. Relative to the counterfactual there may be a benefit for those non-pet horses which can be buried but of course access to suitable land will be required. The size of the benefit will be the numbers that are buried multiplied by the difference in the cost of burial compared to the cost of incineration. We estimate around 20,000 to 40,000 horses die each year but most of these will be pets. We also estimate that burial would be cheaper than incineration by around £125 per horse. Of course the uptake of this derogation is unknown but assuming around 2,000 non-pet horses will be buried each year the benefit would be £250,000. Given the uncertainty around these figures this benefit has not been included in the net present value summary table above. (NB this is also true of other derogations in the table of impacts which provide benefits which cannot be calculated)

7. Small Quantities of Animal By-Products

Both the British Retail Consortium (BRC) and the Association of Convenience Stores (ACS) provided independent consultation responses which were broadly corroborative. The annual cost saving arising from not having to pay for a separate collection for animal by-products would be around £1,000 per shop per year. Across the sector (30,000 to 40,000 shops) this would amount to about £30m to £40m. With such a significant figure per shop we would expect uptake to be high. Feedback from BRC and ACS is that there is likely to be considerable interest from retailers in taking up this derogation. Nevertheless, we have made a conservative estimate of 80% take up reducing the benefit to £24-32m. Note as described in para 22 the 50kg threshold for small quantities is not available for use as a derogation in the

UK as the conditions concerning the lack of an adequate system for the handling and disposal of ABPs are not relevant

10. Disposal of Animal By- Products on Farm

Currently the disposal of animal by products arising from surgical interventions (like tail docking, castration etc) or the birth of animals must be removed from farm and disposed of by incineration/rendering. The derogation from the new regulation allows disposal on farm (by burial). The government is taking advantage of this derogation in part with the exception of foetuses and placenta (where there may be a disease risk). To the extent that we are not taking full advantage of the derogation there is a benefit foregone. Under OIOO methodology this is treated as a cost to business. Of course there is an offsetting benefit to business to the extent that we are taking advantage of the derogation which was not available under previous legislation with respect to other material. The volume of birth and other material is likely to be small and the assumption is that much of it would be collected during other routine collections by the knacker at virtually no extra cost. (i.e. it will be picked up with other fallen stock which is likely to be more prevalent anyway at such times e.g at lambing). No information was provided in response to a request during the consultation and so the following is based on assumptions about visits to farms at a typical call out cost of £20 a visit on those rare occasions where a collection is not already being made for other fallen stock (We have assumed one such visit per farm per year). This cost would be offset by the alternative disposal route which would be burial on farm (taking about say half an hour at an hourly rate of about £9/hour). There are around 70,000 livestock farms in England that may be considered in scope for this. These include dairy, grazing livestock, pigs and mixed farms.

Use of Derogation	No of Farms	No of extra visits	Net cost per visit (£)	Annual Benefit/Cost (£m)
Benefit (1)	70,000	1	15.5(3)	1.09
Cost (Benefit Foregone) (2)	70,000	1	15.5(3)	1.09

(1) This benefit is relative to the current baseline and is included in the net present value summary sheet above.

(2) This benefit foregone (treated as a cost for OIOO purposes) is not a cost relative to the baseline because under the current regulation birthing material should be collected from farm and incinerated/rendered. It is therefore not included in the net present value summary sheet above.

(3) Based on a call out charge of £20 less the alternative cost of burial of £4.50

14. Use of Shellfish Shells

During the consultation information on the uptake and benefit value of this derogation was provided by Seafish. Seafish are an NDPB which provides a range of services to the sector and are funded by an industry levy. As such their figures are reliable and based on independent evaluation of the information available. Current shell disposal costs average around £120/t. Under the derogation there will be a reduction in this cost of around £70/t resulting from the disposal of shells without the need for rendering. This would apply to about 10 to 15 companies disposing of a total of 50,000t to 75,000t a year and would reduce costs for the sector by about £3.5m to £5.25m. Seafish thought there was scope over time for this volume to increase by about a third or even more if incorporation of shell in fertilisers became more widespread. This would lead to additional savings but given the uncertainties we have not included this potential increase in savings as part of the benefits.

Below is a summary of business costs as they affect One In One Out (OIOO). The costs of the registration may affect some members of the public as well as businesses but as they arise from the direct applicable EU law even the business costs are in any case not in scope for OIOO. We have not been able to quantify some costs and benefits which ought to appear in this table. The slightly higher disease risks and associated costs fall in this category but it should be noted that disease costs that affect humans, companion and wild animals would be out of scope for OIOO. On the whole we consider the unquantified costs and benefits that would be relevant to OIOO are likely to be small and largely off-setting.

SUMMARY

OIOO Business Costs (equivalent annual cost rounded to nearest £0.1m)

	In Scope (Cost)	Out of Scope (Benefit)	Out of Scope (Cost)
Cost of Registration (a)			0.4
Small Quantities of ABPs		22.4 -28.0	
Shellfish		3.3-4.9	
Disposal of ABPs on farm	1.0	1.0	

(a) Arise from directly applicable EU law and therefore out of scope.

Annexes

Annex 1 should be used to set out the Post Implementation Review Plan as detailed below. Further annexes may be added where the Specific Impact Tests yield information relevant to an overall understanding of policy options.

Annex 1: Post Implementation Review (PIR) Plan

A PIR should be undertaken, usually three to five years after implementation of the policy, but exceptionally a longer period may be more appropriate. *If the policy is subject to a sunset clause, the review should be carried out sufficiently early that any renewal or amendment to legislation can be enacted before the expiry date.* A PIR should examine the extent to which the implemented regulations have achieved their objectives, assess their costs and benefits and identify whether they are having any unintended consequences. Please set out the PIR Plan as detailed below. If there is no plan to do a PIR please provide reasons below.

<p>Basis of the review: [The basis of the review could be statutory (forming part of the legislation), i.e. a sunset clause or a duty to review , or there could be a political commitment to review (PIR)];</p> <p>The basis of the review will be policy driven i.e. in order to better quantify the costs and benefits of the EU Animal By-Products Regulations</p>
<p>Review objective: [Is it intended as a proportionate check that regulation is operating as expected to tackle the problem of concern?; or as a wider exploration of the policy approach taken?; or as a link from policy objective to outcome?]</p> <p>The review objective is intended to establish the impact of the new EU Regulations on business</p>
<p>Review approach and rationale: [e.g. describe here the review approach (in-depth evaluation, scope review of monitoring data, scan of stakeholder views, etc.) and the rationale that made choosing such an approach]</p> <p>Scan of stakeholder views, as this is a new area which has not been looked at before this is the most appropriate mechanism for gathering this data</p>
<p>Baseline: [The current (baseline) position against which the change introduced by the legislation can be measured]</p> <p>The previous ABP Regulation- little data available at present</p>
<p>Success criteria: [Criteria showing achievement of the policy objectives as set out in the final impact assessment; criteria for modifying or replacing the policy if it does not achieve its objectives]</p> <p>The EU Regulations result in a net cost saving to business compared with the previous Regulation 1774/2002 with no increase in risks to animal and public health. Areas which could be improved will be highlighted for possible amendment</p>
<p>Monitoring information arrangements: [Provide further details of the planned/existing arrangements in place that will allow a systematic collection systematic collection of monitoring information for future policy review]</p> <p>Annual request for information from various industry bodies in form of questionnaire, results placed on website and data used to inform future policy decisions</p>
<p>Reasons for not planning a review: [If there is no plan to do a PIR please provide reasons here]</p>