

DVMs for distribution

Border Inspection Posts (England) – for action
Designated Point of Entry Authorities (England)
Chief Port Health Officers – for action
Nominated officers for Imported Food (England)

cc:

APHA
CIEH
APA
Trading Standards Institute
Health Protection England

7 January 2016

Reference: OVS/2016/01
DPE/2016/01

Dear Colleagues,

COMMISSION IMPLEMENTING REGULATION (EU) 2016/6 IMPOSING SPECIAL CONDITIONS GOVERNING THE IMPORT OF FEED AND FOOD ORIGINATING IN OR CONSIGNED FROM JAPAN AND REPEALING REGULATION (EU) NO 322/2014

This letter is addressed to Authorities for Border Inspection Posts (BIPs), Designated Points of Entry (DPEs), Chief Port Health Officers and Nominated Officers in England.

Further to our letter of 6th March 2015 (DPE/2015/01, OVS/2015/13), I am writing to advise that Commission Implementing Regulation (EU) 2016/6, was published in the Official Journal on 6th January 2016.

Regulation (EU) 2016/6 will enter into force on 9th January and a link to the Regulation can be seen here: http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOL_2016_003_R_0003&from=EN.

Valid declarations are only required for consignment of mushrooms, fish and fishery products (with the exception of scallops), rice, soybeans, (Japanese) persimmon, Japanese or giant butterbur (fuki), *Aralia* spp., bamboo shoot, bracken, Japanese royal fern, ostrich fern and koshiabura. The declaration is also required for derived products of the above or a compound feed or food containing more than 50 % of those products.



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Food & Rural Affairs



Animal &
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INVESTORS
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The declaration certifies that the product:

- has been harvested and/or processed before 11 March 2011;
- does not originate in and is not consigned from one of the prefectures listed in Annex II, requiring the sampling and analysis;
- is consigned from, but does not originate in, one of the prefectures listed in Annex II, requiring sampling and analysis and has not been exposed to radioactivity during transiting;
- originates in one of the prefectures listed in Annex II for which the sampling and analysis of this product is required;
- where the origin of the product or of its ingredients present at more than 50 % is unknown.

Fish and fishery products caught or harvested in the coastal waters of the Fukushima, Gunma, Ibaraki, Tochigi, Miyagi, Chiba or Iwate prefectures must be accompanied by a declaration and by an analytical report containing the results of sampling and analysis, irrespective of where such products are landed.

Only products originating in one of the listed prefectures, where the origin of the product or of its ingredients is unknown as well as Fish and fishery products caught or harvested in the coastal waters of the Fukushima, Gunma, Ibaraki, Tochigi, Miyagi, Chiba or Iwate prefectures, must the declaration be accompanied by an analytical report containing the results of sampling and analysis.

Consignments requiring declarations are subjected to:

- Documentary checks on all consignments
- Physical and identity checks, including laboratory analysis, carried out on a random basis, which is understood to mean less than 5%.

Where the result of the laboratory analysis provides evidence that the guarantees provided in the declaration are false, the declaration is considered invalid and the consignment therefore does not comply with the requirements of Regulation 2016/6.

As a transitional measure, products may be imported if:

- they comply with Implementing Regulation (EU) No 322/2014; and
- either they left Japan before the entry into force of this Regulation or they left Japan after the entry into force of this Regulation but before 1 February 2016 and they are accompanied by a declaration in accordance with Regulation 322/2014 which was issued before 9th January.

Implementing Regulation (EU) No 322/2014 as amended is repealed.

Regulation 2016/6 has been implemented by means of Declaration OFFC 2016/E/001 issued under Regulation 35 of the Official Feed and Food Controls (England) Regulations 2009 and Declaration TARP REG 29/071 issued under Regulation 29 of The Trade in Animals and Related Products Regulations 2011. Copies of these Declarations are attached, as PDF documents, to the email accompanying this letter.

If you have any queries on the content of this letter please contact the Agency's Imported Food Team by email at imported.food@foodstandards.gsi.gov.uk

Yours sincerely

Simon Petty

Imported Food Team
Regulatory and International Strategy Division

Reference: OFFC 2016/E/001

**THE OFFICIAL FEED AND FOOD CONTROLS (ENGLAND)
REGULATIONS 2009 (SI 2009/3255) (the “Regulations”)**

DECLARATION UNDER REGULATION 35

Whereas the Food Standards Agency has reasonable grounds to suspect that food and animal feed originating in or consigned from Japan may contain radioactivity which is above the legal maximum permitted levels for trade within the European Union and is likely to constitute a serious risk to animal and public health;

Whereas following the accident at the Fukushima nuclear power station on 11 March 2011, the Commission of the European Union was informed that radionuclide levels in certain food products originating in Japan exceeded the action levels in food applicable in Japan;

Whereas such contamination may constitute a threat to public and animal health in the European Union and therefore Commission Implementing Regulations imposing special conditions governing the import of feed and food originating in or consigned from Japan were adopted. These Commission Implementing Regulations were:

- Commission Implementing Regulation (EU) No 297/2011 (OJ No. L 80, 26.3.2011, p.5), that Regulation being replaced by:
- Commission Implementing Regulation (EU) No 961/2011 (OJ No. L 252, 28.9.2011, p.10), that Regulation being replaced by:
- Commission Implementing Regulation (EU) No 284/2012 (OJ No. L 92, 30.3.2012, p. 16), that Regulation being replaced by:
- Commission Implementing Regulation (EU) No 996/2012 (OJ No. L 299, 27.10.2012, p. 31), that Regulation being replaced by:
- Commission Implementing Regulation (EU) No 322/2014 (OJ No. L 95, 29.3.2014, p. 1);

Whereas Commission Implementing Regulation (EU) No 322/2014 provides that the measures provided therein are to be reviewed by 31 March 2015 and in order to take into account the further development of the situation and occurrence data for 2014 on radioactivity in feed and food, the Commission of the European Union considered it appropriate to repeal Implementing Regulation (EU) No 322/2014 and adopt a new Regulation;

Whereas on 5 January 2016 the Commission of the European Union adopted Commission Implementing Regulation (EU) 2016/6 (OJ No. L 3, 6.1.2016, p.5) imposing special conditions governing the import of feed and food originating in or consigned from Japan following the accident at the Fukushima nuclear power station and repealing Implementing Regulation (EU) No. 322/2014;

Whereas alcoholic beverages falling within the CN codes 2203 to 2208 are no longer explicitly excluded from the scope, as the requirements as regards sampling and analysis and declaration apply to a defined list of feed and food;

Whereas the data submitted by the Japanese authorities provide evidence that it is no longer necessary to require the sampling and analysis of feed and food originating in the prefectures of Aomori and Saitama regarding the presence of radioactivity before export to the European Union;

Whereas the Commission of the European Union considered it appropriate, in order to facilitate the application of Commission Implementing Regulation (EU) 2016/ to present the provisions of that Regulation in a manner that prefectures of which the same feed and food has to be sampled and analysed before export to the European Union are grouped together;

Whereas as regards the prefectures of Gunma, Ibaraki, Tochigi, Miyagi, Iwate and Chiba, it is currently required to sample and analyse mushrooms, fishery products, rice, soybeans, buckwheat and certain edible wild plants and the processed and derived products thereof, before export to the European Union. The same requirements apply to compound foodstuffs containing more than 50 % of those products. The occurrence data for the fourth growing season provide evidence that for several of those feed and food commodities, it is appropriate to no longer require sampling and analysis before export to the European Union;

Whereas as regards the prefectures of Akita, Yamagata and Nagano, it is currently required to sample and analyse mushrooms and certain edible wild plants and the processed and derived products thereof before export to the European Union. The occurrence data for the fourth growing season provide evidence that for one of the edible wild plants, it is appropriate to no longer require sampling and analysis before export to the European Union. On the other hand, as a consequence of the finding of non-compliance in an edible wild plant, it is appropriate to require sampling and analysis of this edible wild plant originating from those prefectures;

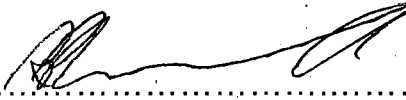
Whereas the occurrence data from the fourth growing season provide evidence that it is appropriate to maintain the requirement for sampling and analysis before export to the European Union for mushrooms originating from the prefectures of Shizuoka, Yamanashi and Niigata. As a consequence of the finding of non-compliance in an edible wild plant, it is appropriate to require sampling and analysis of this edible wild plant originating from those prefectures;

And whereas the special conditions governing the import of feed and food originating in or consigned from Japan imposed by Commission Implementing Regulation (EU) 2016/6 exclude:

- products which have been harvested and/or processed before 11 March 2011;
- personal consignments of feed and food of animal origin which are covered by Article 2 of Regulation (EC) 206/2009 (OJ No. L 77, 24.3.2009, p. 1); and
- personal consignments of feed and food other than of animal origin which are non-commercial and destined to a private person for personal use and consumption only;

The Food Standards Agency declares in accordance with regulation 35 of the Regulations that with effect from **9 January 2016** importation into England of feed and food originating in or consigned from Japan is subject to the conditions specified in Articles 3, 4, 5, 6, 7, 8, 9 and 13 of Commission Implementing Regulation (EU) 2016/6 (OJ No. L 3, 6.1.2016, p.5) imposing special conditions governing the import of feed and food originating in or consigned from Japan following the accident at the Fukushima nuclear power station and repealing Implementing Regulation (EU) No. 322/2014, as read with Article 16 (transitional provision) of Commission Implementing Regulation (EU) 2016/6.

Declaration OFFC 2015/E/003 is revoked with effect from 9 January 2016.

Signed by:  Date: 7 January 2016

Print name: Rod Answorth

Give details of post held: Director of Regulatory and Legal Strategy

For and on behalf of the Food Standards Agency

NOTES

1. Any expression used in both this declaration and Commission Implementing Regulation (EU) 2016/6 has the same meaning as it bears in that Implementing Regulation.
2. The importation into England of feed and food originating in or consigned from Japan in contravention of this declaration is an offence, punishable by a fine or with imprisonment or both.

Reference: TARP REG 29/71

THE TRADE IN ANIMALS AND RELATED PRODUCTS REGULATIONS 2011 (SI 2011/1197) (the “Regulations”)

DECLARATION UNDER REGULATION 29

Whereas the Food Standards Agency has reasonable grounds to suspect that food and animal feed originating in or consigned from Japan may contain radioactivity which is above the legal maximum permitted levels for trade within the European Union and liable to present a serious threat to human or animal health;

Whereas following the accident at the Fukushima nuclear power station on 11 March 2011, the Commission of the European Union was informed that radionuclide levels in certain food products originating in Japan exceeded the action levels in food applicable in Japan;

Whereas such contamination may constitute a threat to public and animal health in the European Union and therefore Commission Implementing Regulations imposing special conditions governing the import of feed and food originating in or consigned from Japan were adopted. These Commission Implementing Regulations were:

- Commission Implementing Regulation (EU) No 297/2011 (OJ No. L 80, 26.3.2011, p.5), that Regulation being replaced by:
- Commission Implementing Regulation (EU) No 961/2011 (OJ No. L 252, 28.9.2011, p.10), that Regulation being replaced by:
- Commission Implementing Regulation (EU) No 284/2012 (OJ No. L 92, 30.3.2012, p. 16), that Regulation being replaced by:
- Commission Implementing Regulation (EU) No 996/2012 (OJ No. L 299, 27.10.2012, p. 31), that Regulation being replaced by:
- Commission Implementing Regulation (EU) No 322/2014 (OJ No. L 95, 29.3.2014, p. 1);

Whereas Commission Implementing Regulation (EU) No 322/2014 provides that the measures provided therein are to be reviewed by 31 March 2015 and in order to take into account the further development of the situation and occurrence data for 2014 on radioactivity in feed and food, the Commission of the European Union considered it appropriate to repeal Implementing Regulation (EU) No 322/2014 and adopt a new Regulation;

Whereas on 5 January 2016 the Commission of the European Union adopted Commission Implementing Regulation (EU) 2016/6 (OJ No. L 3, 6.1.2016, p.5) imposing special conditions governing the import of feed and food originating in or consigned from Japan following the accident at the Fukushima nuclear power station and repealing Implementing Regulation (EU) No. 322/2014;

Whereas alcoholic beverages falling within the CN codes 2203 to 2208 are no longer explicitly excluded from the scope as the requirements as regards sampling and analysis and declaration apply to a defined list of feed and food;

Whereas the data submitted by the Japanese authorities provide evidence that it is no longer necessary to require the sampling and analysis of feed and food originating in the prefectures of Aomori and Saitama regarding the presence of radioactivity before export to the European Union;

Whereas the Commission of the European Union considered it appropriate, in order to facilitate the application of Commission Implementing Regulation (EU) 2016/ to present the provisions of that Regulation in a manner that prefectures of which the same feed and food has to be sampled and analysed before export to the European Union are grouped together;

Whereas as regards the prefectures of Gunma, Ibaraki, Tochigi, Miyagi, Iwate and Chiba, it is currently required to sample and analyse mushrooms, fishery products, rice, soybeans, buckwheat and certain edible wild plants and the processed and derived products thereof, before export to the European Union. The same requirements apply to compound foodstuffs containing more than 50 % of those products. The occurrence data for the fourth growing season provide evidence that for several of those feed and food commodities, it is appropriate to no longer require sampling and analysis before export to the European Union;

Whereas as regards the prefectures of Akita, Yamagata and Nagano, it is currently required to sample and analyse mushrooms and certain edible wild plants and the processed and derived products thereof before export to the European Union. The occurrence data for the fourth growing season provide evidence that for one of the edible wild plants, it is appropriate to no longer require sampling and analysis before export to the European Union. On the other hand, as a consequence of the finding of non-compliance in an edible wild plant, it is appropriate to require sampling and analysis of this edible wild plant originating from those prefectures;


Whereas the occurrence data from the fourth growing season provide evidence that it is appropriate to maintain the requirement for sampling and analysis before export to the European Union for mushrooms originating from the prefectures of Shizuoka, Yamanashi and Niigata. As a consequence of the finding of non-compliance in an edible wild plant, it is appropriate to require sampling and analysis of this edible wild plant originating from those prefectures;

And whereas the special conditions governing the import of feed and food originating in or consigned from Japan imposed by Commission Implementing Regulation (EU) 2016/6 exclude:

- products which have been harvested and/or processed before 11 March 2011;
- personal consignments of feed and food of animal origin which are covered by Article 2 of Regulation (EC) 206/2009 (OJ No. L 77, 24.3.2009, p. 1); and
- personal consignments of feed and food other than of animal origin which are non-commercial and destined to a private person for personal use and consumption only;

The Food Standards Agency declares in accordance with regulation 29 of the Regulations that with effect from **9 January 2016** importation into England of feed and food originating in or consigned from Japan is subject to the conditions specified in Articles 3, 4, 5, 6, 7, 8, 9 and 13 of Commission Implementing Regulation (EU) 2016/6 (OJ No. L 3, 6.1.2016, p.5), imposing special conditions governing the import of feed and food originating in or consigned from Japan following the accident at the Fukushima nuclear power station and repealing Implementing Regulation (EU) No. 322/2014, as read with Article 16 (transitional provision) of Commission Implementing Regulation (EU) 2016/6.

Declaration TARP REG 29/066 is revoked with effect from 9 January 2016.

Signed by:  Date: *27/1/2016*

Print name: *Rod Answorth*

Give details of post held: *Director of Regulatory and Legal Strategy*

For and on behalf of the Food Standards Agency

NOTES

1. Any expression used in both this declaration and Commission Implementing Regulation (EU) 2016/6 has the same meaning as it bears in that Implementing Regulation.
2. The importation into England of feed and food originating in or consigned from Japan in contravention of this declaration is an offence, punishable by a fine or with imprisonment or both.