



Animal Products (Disposal of Non-conforming Dairy Material or Dairy Product) Notice 2009

Pursuant to sections 45 and 167(1)(h) of the Animal Products Act 1999 and having had regard to the matters specified in section 44(7) of that Act, I, Carol Barnao, Director (Standards) issue the following notice setting prescribed procedures and specifying requirements for the management of non-conforming dairy material and dairy product that are necessary and desirable to give effect to, and amplify, regulation 5 of the Animal Products (Dairy) Regulations 2005.

Signed at Wellington this 25th day of June 2009

[Signed]

Carol Barnao
Director (Standards)
New Zealand Food Safety Authority
(Acting under delegated authority)

Certified in order for signature

[Signed]

Solicitor
Legal Services

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Notice

1 Title

This notice is the Animal Products (Disposal of Non-conforming Dairy Material or Dairy Product) Notice 2009.

2 Commencement

This notice comes into force on 29 June 2009.

Part 1 Preliminary Provisions

3 Purpose

- (1) This notice specifies prescribed procedures and requirements for the purpose of regulation 5 of the Animal Products (Dairy) Regulations 2005.
- (2) The prescribed procedures and requirements may (if applicable) be followed by a dairy processor as an alternative to the requirement to obtain the written consent of the Director-General (under regulation 5(1) of the Animal Products (Dairy) Regulations 2005) before disposing of non-conforming dairy material and dairy product.

4 Interpretation

- (1) In this notice, unless the context otherwise requires,—

Act means the Animal Products Act 1999

applicable recognised agency means the agency recognised by the Director-General for the purposes of verification of the risk management programme that covers the non-conforming dairy material or dairy product that is the subject of the product disposal application

approved means approved under the Act

non-compliance means a failure to comply with any requirements under the Act

non-conforming in relation to dairy material and dairy product, means any dairy material or dairy product that is suspected or known not to meet requirements imposed by or under the Act or not to have been processed in accordance with any requirements imposed by or under the Act

NZFSA means the New Zealand Food Safety Authority

product disposal application means an application for the approval of the disposal of any non-conforming dairy material or dairy product.

- (2) All terms or expressions that are defined in the Animal Products Act 1999 or the Animal Products (Dairy) Regulations 2005 and used, but not defined in this notice have the same meaning as in that Act or those regulations.

Part 2

Disposal of Non-Conforming Dairy Material and Dairy Product

5 General requirements

- (1) A risk management programme operator may submit a product disposal application to the applicable recognised agency for approval if the circumstances in subclause (2) apply.
- (2) The circumstances are if—
- the product disposal application relates to a non-conformance of a type set out in column 1 of the Schedule; and
 - the non-conforming dairy material or dairy product is intended for a use set out in the corresponding row in column 2 of the Schedule; and
 - all applicable requirements specified in the corresponding row of column 3 of the Schedule have been fulfilled.
- (3) If an applicable recognised agency approves a product disposal application, the risk management programme operator must dispose of the affected dairy material or dairy product in the manner approved by their Recognised Agency (which may, if the applicable agency considers it necessary and after consultation with the risk management programme operator, differ from the disposal proposal submitted to the applicable Recognised Agency).
- (4) A product disposal application must—
- identify the non-conforming dairy material or dairy product; and
 - specify the reasons for the non-conformance; and
 - specify the corrective actions taken by the risk management programme operator; and
 - specify the manner of disposal proposed.
- (5) For the avoidance of doubt, if the circumstances in subclause (1) do not apply, a risk management programme operator must obtain the consent in writing of the Director-General (under regulation 5 of the Animal Products (Dairy) Regulations 2005) before disposing of non-conforming dairy material and dairy product.

6 Recognised agency requirements

- (1) An applicable recognised agency that receives a product disposal application must verify that the circumstances in clause 5(2) apply before approving the application.
- (2) If the applicable recognised agency has verified that the circumstances in clause 5(2) apply, the applicable recognised agency must, subject to subclause (3), approve the product disposal application in writing.
- (3) The applicable recognised agency may, if it considers it necessary and after consultation with the risk management operator, include a disposal proposal that differs from the disposal proposal submitted to the applicable recognised agency.
- (4) The applicable recognised agency must, prior to, or in conjunction with giving the risk management programme operator concerned written consent for disposal pursuant to subclause (2), submit a report in writing to the Director-General in relation to the agency's verification of the application of clause 5(2).

Schedule

Column 1	Column 2	Column 3
Non-conformance	Disposal option	Requirements that must be fulfilled
Known or suspected foreign matter contamination	Release for export and local market human and animal consumption use (without further processing).	<p>Wholesomeness criteria are met, as follows – the product does not contain or have attached to it, enclosed with it, or in contact with it anything that is offensive, or the presence of which would be unexpected or unusual and—</p> <p>(a) there is a downstream critical control point to control the potential hazard i.e. Metal detector/Filter/Sifter; or</p> <p>(b) the foreign matter present is not of a size or sharpness to cause injury to the mouth or gastrointestinal tract by perforation or other mechanisms. In addition, the foreign matter present will not release compounds harmful to health and is not glass greater than 0.1mm.</p>
	Release for export and local market animal consumption use after further processing.	<p>Further processing is carried out within New Zealand, in a premises which is controlled by the operator and is registered by NZFSA for this type of operation and—</p> <p>(a) the further processing application includes a filtration step (must be a critical control point) which will remove the potential foreign matter present; or</p> <p>(b) the further processing application includes a metal detection/x-ray step (must be a critical control point) which will detect the presence of foreign matter.</p>
	Release for local market animal consumption use after further processing.	<p>Further processing is carried out within New Zealand, in a premises that meets the Animal Product Act 1999 and/or Agricultural Compounds and Veterinary Medicines Act 1997 requirements (as applicable) and—</p> <p>(a) the further processing application includes a filtration step (that is managed as a critical control point) which will remove the potential foreign matter present; or</p> <p>(b) the further processing application includes a metal detection/x-ray step which will detect the presence of foreign matter. It is expected that appropriate calibration and validation of operational records will be maintained by the operator and available on request.</p> <p>Note: In these instances it is the original manufacturer's responsibility to ensure the company reworking the product is aware of the non conformance and any conditions (size of filters used</p>

		etc) advised by the applicable Recognised Agency.
Critical control point (CCP) failure (as stated in the operator's risk management programme)	Release for export and local market human and animal consumption use.	Measures have been taken to ensure the product still complies with the outcome criteria specified by NZFSA. For example— <ol style="list-style-type: none"> 1. Loss of heat treatment records, where the Recognised Agency reviews the situation and determines that all heat treatment criteria have been met; or 2. Filter/sifter failures where all foreign matter has been recovered and/or where it has been positively identified that there would have been little/no foreign matter risk eg checking of intrusive maintenance records etc; or 3. Metal detector check failures, where the potentially affected product has been rescanned through a fully functioning metal detector.
Instances where there is — (a) known or suspected foreign matter contamination; or (b) a critical control point failure; or (c) microbiological results are outside the defined product safety limits stated in the operator's risk management programme.	Release for disposal to landfill or destruction.	The product is controlled by the operator to ensure it is disposed of correctly. Copies of the landfill receipts or other appropriate verification must be provided to the Recognised Agency along with the method of destruction. In these instances it is the operator's responsibility to ensure local council and resource consent requirements are met.

Issued under section 167 of the Animal Products Act 1999.

Date of notification in Gazette: []

This notice is administered in the New Zealand Food Safety Authority.
