

WHAT IS A REGULATION 22 AND WHAT DOES IT MEAN?

What is a Regulation 22?

A Regulation 22 is the working name given to a Notice issued under Regulation 22(1) of the Animals and Animal Products (Import and Export) Regulations 2006.

Regulation 22(1) of the Regulations covers illegal consignments originating from third countries. It states that:

22(1) Where checks at the quarantine centre, quarantine facility or border inspection post reveal that the animals do not comply a veterinary inspector shall, by notice served on the person appearing to him to be in charge of those animals, require that person to –

- (a) shelter, feed and water and if necessary, treat the animals:*
- (b) place them in quarantine or isolate the consignment at such place as may be specified in the notice, and to take such other action in relation to the animals as may be necessary for the purpose of preventing the introduction or spreading of disease into or within England: or*
- (c) re-despatch them outside the territory of the EC, where animals health or welfare considerations so permit, within such period as may be specified in the notice.*

When is a Regulation 22 issued?

A Regulation 22 can be issued when an error is identified with a consignment and the documentation accompanying it and the risk posed by the consignment can be isolated sufficiently to pose a low risk to the health status of GB.

Common reasons for the issue of a Regulation 22 include one or more of the following:

- Some/ all documentation lost in transit
- Errors in the quantity of animals in the consignment ie under certified
- Errors on the health certificate inc the declarations made or the signing date
- Incomplete health certificate

Who is a Regulation 22 issued to?

A Regulation 22 is served on the importer of the consignment – as they are deemed to be ‘the person appearing to be in charge of those animals’ at the time of the importation and the veterinary checks.

It is their responsibility to ensure that the terms of the Regulation 22 are complied with.

Before a Regulation 22 is placed the border inspection post (BIP) staff will consult the importer. This discussion will include the identification of a small number of facilities where the consignment can be isolated. This can be a facility run by the importer or the address(es) of a third party. It remains the responsibility of the person served the Regulation 22 (the importer) to ensure any third parties are aware of the terms of the Regulation 22 and that the animals are isolated at the address(es) so as to prevent the introduction or spreading of disease.

All isolation sites must have been approved by the Fish Health Inspectorate (FHI) as appropriate isolation facilities/ protocols.

Approval as an isolation site

The FHI are currently assessing all aquaculture production businesses (APBs) authorised to import with regard to their isolation facilities/ protocols and where appropriate those of their customers. Our records will be used to determine if a site can act as an isolation site for animals under a Regulation 22.

It is possible to be:

- An APB importer with own isolation facilities
- An APB importer with no isolation facilities, provided a plan is in place to deal with Regulation 22 issues
- An isolation facility not importing but that has agreed to hold animals under a Regulation 22 for others while the issue is resolved

All importers will be assessed as part of the authorisation process. Anyone wishing to become an isolation facility who does not import eg buys from consolidators who do the importation should contact the FHI for assessment.

What is isolation?

Any site named as the detention address for a Regulation 22 must comply with the terms of Annex II of the Regulation (see below).

Conditions of Detention for Fish/Shellfish - Annex II

1. The fish/shellfish described in Annex 1 of this Notice shall be held in facilities isolated from any other fish/shellfish held within the specified detention premises until its (their) release has been authorised by a further Notice issued by a Veterinary/Authorised Inspector.
2. The isolation shall mean that:
 - i) There is no water recirculation common with other facilities on the premises;
 - ii) There is physical separation of the facilities holding fish/shellfish identified in Annex 1 of this Notice and other holding facilities on the premises. This shall be sufficient to ensure that at all times no fish/shellfish, water or other products can escape or be transferred.
 - iii) Any equipment (for example nets) coming into contact with the fish/shellfish identified in Annex 1 of this Notice, must be cleaned and disinfected using a Defra approved disinfectant before use elsewhere on the premises;
3. Each holding facility shall be individually identified by a label or notice which shall clearly identify the contents by number and species and the date of entry.
4. No other fish/shellfish or product shall be moved into or from the facilities described under paragraph 3.
5. Facilities for handling fish/shellfish and all reasonable assistance required by the Veterinary/Authorised Inspector shall be provided at the detention premises.
6. Any illness or deaths among the fish/shellfish shall be reported immediately to the Fish Health Inspectorate (FHI) at Cefas (tel 01305 206700), Weymouth Laboratory (England and Wales) or the Fisheries Research Services (tel 01224 295645), Marine Laboratory, Aberdeen (Scotland).
7. A Veterinary/Authorised Inspector shall be permitted to examine, sample, treat, euthanase or tests any fish/shellfish described in Annex 1.

Failure to do so is a breach of the Regulation 22 which could lead to prosecution and/ or jeopardise any other animals mixed with those controlled under the Regulation 22.

For example – if imported animals controlled by a Regulation 22 are placed in a recirculation system, that already contains other animals or additional animals are placed in a system containing detained animals, ALL animals in that system will be subject to the detention conditions of the Regulation 22. This would mean none of the animals in that system can move until the Regulation 22 is released. It also means that if the Regulation 22 results in the slaughter of the animals ALL animals in the system would have to be culled not just the imported animals.

How and when is a Regulation 22 released?

The recipient of the Regulation 22 (the importer) must resolve the problem that resulted in the placing of the Regulation 22.

The most common problem is an error with the health certificate. These can include:

- Unsigned or unauthorised signatory
- Under certification of the number of animals
- Signed outside the timescale ie more than 72 hours before shipping
- Errors with disease declarations
- Missing page(s)
- Originals lost in transit

In these cases the importer or a representative must liaise with their supplier and/ or the competent authority responsible for the supply site to arrange an amended/ replacement health certificate. A correct original certificate must reach the GB authorities before the Regulation 22 will be released. This can either be sent by courier to GB and a hard copy presented at the BIP of entry or the competent authority can email the Fish Health Inspectorate directly at fhi@cefias.co.uk confirming the details of the original consignment and attaching a scanned copy of the amended/ replacement certificate – this will be treated as a certified true copy.

As a back up plan, in the case of lost/ missing documentation importers can also arrange for their supplier to obtain a certified true copy of the health certificate which can travel inside one of the boxes. This can then be retrieved on opening and presented to the BIP.

When documentation issues cannot be resolved the FHI may sample the consignment. This will involve the sacrifice of a minimum of 30 animals and a 2-3 week wait, hopefully, for a negative result.

Once the BIP and/ or FHI staff are content the problem has been rectified a Release Notice will be issued. Only once this has been issued can the animals be moved/ traded.

Repeated failures to resolve issues or isolate animals appropriately may lead to future consignments not being permitted to leave the BIP under a Regulation 22 and could lead to the withdrawal of an authorisation or even prosecution.

What if the species involved are non-susceptible tropical species?

The FHI apply a risk based approach to our activities, whenever outside pressures and legislation allow.

We are therefore no longer going to issue Regulation 22 Notices to consignments of species that are not susceptible or vector species to the diseases for which we have controls in England and Wales ie. most tropical species, for documentation errors.

Instead these consignments will be issued a Notice under the Aquatic Animal Health Regulations 2009, the legislation under which importers are authorised. This will still require importers to obtain replacement corrected paperwork but will not require the animals to be detained in isolation while this is resolved.

Repeated failures to resolve issues may lead to future consignments not being permitted to leave the BIP under this 'light touch' approach and could lead to the withdrawal of an authorisation or even prosecution.

Contact us

The FHI are happy to advise throughout and can be contacted on fhi@cefasc.co.uk or 01305 206700.

Additional information including, health certificates, notes on completion of health certificates and a register of all APBs can be found on www.efishbusiness.co.uk .