



Association of **Port Health** Authorities

Enforcement Guidance as it relates to Veterinary Checks required by EC Directive 97/78

Version 2 .3 - Sept 2009

Adopted by the APHA BIP Technical Committee 21st May 2009

1. Aims & Objectives

This enforcement guidance has been developed by the Association of Port Health Authorities through the Border Inspection Post Technical Committee, to provide a set of guidelines that can be adopted by all Border Inspection Posts (BIPs). Through this document we aim to clearly set out the principles by which enforcement is carried out.

The policy is based upon the *BERR Regulators' Compliance Code* and has been produced to be adopted as a Local Authority/ Port Health Authority enforcement policy, as required by the Food Standards Agency's Framework Agreement.

The primary purpose of local government enforcement work is to **protect public and animal health**, the environment and groups such as consumers and workers. European and National legislation provides the legal framework that Local and Port Health Authorities enforce. It is our aim to deal with non-compliance in an equitable, consistent and proportionate manner and to facilitate legitimate trade.

We recognise that most businesses want to comply with the law. We will, therefore, take care to help businesses and others meet their legal obligations; in doing this we will:-

- provide information and advice on the rules that we apply.
- provide a courteous, timely and efficient service.
- ensure that, wherever practicable, our enforcement services are effectively co-ordinated to minimise unnecessary overlaps and time delays.
- as far as the law allows, take account of the circumstances of the case.

The Official Veterinarian (OV) or in the case of *fishery products* the Official Fish Inspector (OFI) is required by the Veterinary Checks Directive 97/78/EC to undertake checks on all products of animal origin, as listed in Commission Decision 2007/275/EC, arriving at a Border Inspection Post (BIP) to ensure that each consignment complies with the current EU rules. The EU law is enacted through regulations in the UK.

The veterinary checks that are carried out at the BIP are split into three parts, the documentary check, the identity check and the physical check. There are rules that set out which of these checks are required in respect of each consignment. More information about the checks that are carried out on Products of Animal Origin is available on the APHA website and in the Importers Advice Sheet on this subject.

UK Legislation

The EC legislation is enacted into UK law through the following legislation:-

England

The Products of Animal Origin (Third Country Imports) (England) Regulations 2006 (As amended)

Scotland

The Products of Animal Origin (Third Country Imports) (Scotland) Regulations 2007 (As amended)

Wales

The Products of Animal Origin (Third Country Imports) (Wales) Regulations 2007 (As amended)

Northern Ireland

The Products of Animal Origin (Third Country Imports) Regulations (Northern Ireland) 2007 (As amended)

Web Information: - http://www.porthhealth.co.uk/animal_origin.html
Importer Advice Sheet: - http://www.porthhealth.co.uk/importer_advice.html

If problems are found with the consignment when checks are being carried out the officer at the BIP will contact the person responsible for the load to discuss their findings and enforcement action may follow. In an effort to achieve consistency and transparency in this process we have established the following principles to which we will work.

2. The Documentary Check and Documents Required by the Vet Checks Directive

Food and feed production in Europe is carried out in accordance with a framework of regulations designed to ensure that food safety and animal health is maintained. As well as requiring businesses to have procedures in place to ensure that rules are complied with, compliance visits are made by a range of inspectors to verify this.

In the case of food that is produced outside Europe (in a third country) and then subsequently imported, inspectors are not able to carry out compliance visits and therefore the veterinary certificate or health certificate is relied upon to demonstrate that these same conditions have been complied with in the production of food and feed outside Europe. The veterinary certificate has to be signed by an authorised officer employed by the appropriate competent authority in the third country. The certificate is the key to demonstrating that the product is compliant with the legislation and therefore considerable importance is placed on ensuring that it is correct.

The Documentary Check

The checks that are required to be carried out on documentation at the BIP are laid down in Annex I of Commission Regulation (EC) No 136/2004 (as amended by Commission Regulation 1792/2006, and) Regulation (EC) No 206/2009).

Detailed rules for documentary checks can be found at [Appendix 1](#).

Veterinary and Health Certification

EC legislation contains rules about health certification and in many cases sets out a specific format for the certificate by way of a **model certificate**. Model certificates will contain a number of attestations (conditions that the authorised officer is signing to say that the consignment is in compliance with). Not all of the attestations will be relevant in all cases and it is important that the relevant attestations for the consignment are present and that irrelevant attestations are removed or deleted.

Certificates must comply with the following rules:-

- Must be **original** and unique (unless the consignment is being transhipped).
- Must be in **English**. {if not in English then an official translation is acceptable}
- Veterinary certificates must be completed, signed and stamped by the competent authorities of the exporting country and in doing so must follow the **general principles of certification** laid down in:
 - Council Directive 96/93/EC
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31996L0093:EN:HTML>
 - and Annex IV to Council Directive 2002/99/EC (listed in [Appendix 2](#))
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:018:0011:0020:EN:PDF>.
- Produced by the exporting country, based on the **format** in the **model** laid down in the relevant EU legislation.
- Must be on a **single sheet of paper**. When this is not possible, all sheets must be numbered as page x of z, bear the unique certificate number and be signed, stamped and dated by the certifying officer.

Queries and Errors on Certification

Member States should be able to rely completely on the integrity of certification (Directive 96/93/EC). Consignments accompanied by incorrect certification will be rejected based on a failure of the documentary check.

We recognise that occasionally errors do occur and minor errors will not normally lead to the rejection of a consignment. Incorrect information may be corrected by means of an Original Official correction letter. This option may be offered in relation to the correction of a minor typographical error for example. Where fundamental/ major errors are made which materially alter the meaning of the certificate, the consignment will be rejected.

Alterations to the certificate will not be allowed unless initialled by the original certifying officer. Correction fluid should never be used.

Certificates must be correct, completed in full and the information on the certificates and accompanying documents must be unambiguous and believable. For example: Certification dates, Production Dates, Freezing Dates, Packaging Dates and Dispatch dates must all be later than the Slaughter date.

An **original official correction letter** is a letter signed and dated by the original certifying officer or, if this is impossible, by another authorised officer of the Competent Authority. The letter must:-

- be produced on the headed paper belonging to that competent authority and bear their official seal.
- indicate the unique certificate reference number which it corrects
- clearly state what information should have been on the original certificate
- consist of a single sheet of paper, when this is not possible, all pages needed must be numbered as “[page number] of [total number of pages]”

Without precedent or prejudice, only **one** chance will be given to have the error corrected. Faxed or e-mailed correction letters will not be accepted. Officers will comment on templates or draft documents before they are issued/signed by the competent authority where requested.

Note:- It is the responsibility of the certifying authority to issue correct documents and certificates. If the correction letters or replacement certificates are found unsatisfactory or they are not presented within **two** weeks from the date of the query, the consignment will be rejected.

New/ Replacement Health Certificates

It is usually unacceptable to provide replacement certificates as veterinary certification **must** be signed at the time of loading and retrospective certificates do not comply with the principles of good certification.

In exceptional circumstances a replacement certificate may be accepted, for example if the original certificate was lost due to fire or flooding. We are also aware that certain countries will only issue replacement certificates instead of correction letters. Only in these cases will a replacement be accepted instead of a letter. Where a replacement certificate is issued it must:-

- cancel the previous certificate and include a cross reference to it
- be dated the day it is issued. (Retrospectively dated replacements are unacceptable.)
- have a unique reference number (different than that on the original certificate). A certificate with the same number as the original with the word reissue is not acceptable.

Pre-notification of POAO Consignments and the CVED

Council Directive 97/78/EC requires the person responsible for the load to ensure that all products of animal origin are presented at a BIP approved for that product. Consignments that are not presented at a port approved for that product will be rejected in accordance with Regulation 24 of the Products of Animal Origin (Third Country Imports) (England) Regulations 2006 (parallel legislation is in place in the devolved administrations).

It is a legal requirement that the person responsible for the load notify the BIP in advance of the arrival of the consignment. Pre notification is to be by submission of the information on Part 1 of the CVED, via the TRACES system, hard copy or another way agreed with the BIP. The notification provided via a Port Inventory System is not adequate as pre-notification, as the system does not contain all the information required in Part 1.

Note: if all the information available to complete Part 1 is not available, e.g. due to a delay in receiving the veterinary document, as much of the detail required by Part 1 should be completed as possible and the document submitted to the BIP. The document can be updated with the additional information as it becomes available.

Failing to pre-notify the BIP in advance may lead to the consignment being delayed and/or rejected.

As well as to pre-notify the BIP, it is the person responsible for the load must ensure that the consignment is not removed from the port until the veterinary checks have been completed satisfactorily and the OV/OFI has issued a valid CVED.

At seaports Port Inventory Systems are used as a tool to hold and release containers. It is not the responsibility of the BIP to ensure that the consignment remains on the port.

CVEDs will not be issued retrospectively for consignments that leave the port without checks being satisfactorily completed. Consignments leaving the port will not be allowed to be returned to the port for veterinary checks. The matter would usually be referred to the relevant local authority and HM Revenue & Customs, as those consignments would be regarded as an illegal import.

Common Veterinary Entry Document (CVED)

Agents/Importers must complete Part 1 of the Common Veterinary Entry Document (CVED) in full. The information must match that on the certificates and accompanying documents and must be submitted via the TRACES system before the consignment arrives at the BIP.

An inaccurate CVED submitted by TRACES must be amended by the person or company that submitted it and the BIP notified that this has been carried out. Port Health Staff will print out the revised version of the CVED.

3. Identity Checks on Consignments

The purpose of the identity check is to confirm that the information given in the veterinary certificates or documents for the consignment match with the product. All consignments (except those from NZ) are subject to identity checks which involves the verification that the product, health marks, stamps and other necessary product and or package information conforms to the declaration on the health certificates and accompanying documentation.

Detailed rules about identity checks are laid out in Commission Decision 97/78/EC in Article 4(4)(a). An identity check is defined as a check by visual inspection to ensure that the veterinary certificate(s) or veterinary document(s) or other document(s) provided for by veterinary legislation tally with the product itself.

Where problems are discovered during the identity check they may be approached in one of two ways. Where there is a discrepancy between the documentation and the product itself this is likely to be approached as if there is a problem with the documentation. In this case the information in the previous section is relevant.

Issues with seal numbers, health and identification marks and the absence of required information on the label will be considered as a failure of the identity check. There are specific requirements

relating to the identification mark. Detailed guidance on the identification marking of fishery products is available from APHA.

<http://www.porthhealth.co.uk/pdfs/FishIDFinalV2-0.PDF>

4. Physical Checks on Consignments

Consignments must also be physically checked, a physical check is defined as a check of the product itself, which may include checks on packaging and temperature and also sampling and laboratory testing. (Detailed rules about physical checks are set out in Annex III of Directive 97/78/EC.)

As well as a general examination of the condition of the consignments and a check on the transport conditions including the temperature, the physical check may include sampling the product to look for pathogenic micro-organisms or illegal contaminants such as veterinary drugs residues or heavy metals. Special conditions may be set down in EU legislation requiring testing to be carried out of specified products from locations where there are known problems. The importer will be responsible for meeting the cost of these additional controls before consignments can be released.

Not all consignments will be subject to a physical check. Commission Decision 94/360/EC prescribes the frequency/level of physical checks for certain products.

There are a variety of different issues that could be identified here, such as problems with temperature control or with the condition of the load e.g. if the product or packaging were to be dirty/ contaminated.

Where the consignment has been found to be unsatisfactory following sampling and analysis, it is not normally possible for the sample to be retested as the distribution of the contamination is not normally consistent throughout the load. Certain types of analysis can be repeated such as analysis of a composite product for excess colours or preservatives. In these cases the BIP will have retained a part of the sample that may be analysed at your own cost. The BIP will be able to provide more information about this should it be required.

5. Non –compliant Consignments

The Official Veterinarian or Official Fish Inspector has the discretion to ask for additional supporting documents and to carry out additional checks on the basis of findings or any other information received.

The Certifying Official Veterinarian or Official Fish Inspector has the ultimate discretion as to whether or not to sign the CVED. The OV/OFI will usually liaise with Animal Health, The Food Standards Agency and/or DEFRA in cases of doubt.

When the decision is made to reject a consignment, the appropriate notice under The Products of Animal Origin (Third Country Imports) (England) Regulations 2006 (as amended) (and parallel legislation in the Devolved Administrations) will be served which will outline the reasons for rejection. In most cases the notice will be under Regulation 21 for consignments which failed veterinary checks. Appeal against the decision made under Regulation 21 may be made by means of complaint through the Magistrates Court within 30 days of receiving the notice.

The inspector will consult with the person responsible for the load prior to the service of the notice either in writing or over the phone to discuss the options that are available in respect of the consignment.

4. What we expect from Agents and Importers

Documents and Certificates should be lodged in a timely fashion before the vessel arrives. (Lodging large numbers of CVEDs and other Documents late on a Friday is not helpful or useful for rapid processing).

Veterinary checks cannot commence until original documents/certificates are received at the BIP.

Telephone/email follow up by agents and importers (and in particular from producers/exporters in the third country) for progress of consignments, queries and hold ups should be kept to a minimum as dealing with these takes officers away from other duties and can exacerbate delays.

Verbal abuse and or harassment is unacceptable at any time and may result in formal action being taken in accordance with the Port Health Authority/Local Authority procedures relating to physical/verbal abuse.

Annex I to Regulation (EC) No 136/2004

THE DOCUMENTARY CHECKS REFERRED TO IN ARTICLE 1(1)

The following rules are to be applied to the documentary checks on products from third countries:

1. For each consignment, the competent authority must ascertain the intended customs approved treatment or use to which the goods will be assigned.
2. Each certificate or document for animal health or public health which accompanies a consignment of products originating in a third country and presented to the border inspection post must be inspected in order to confirm as appropriate:
 - a) that it is an original certificate or document;
 - b) that it refers to a third country or part of a third country authorised to export to the Community, or, for non-harmonised products, to the Member State concerned;
 - c) that its presentation and content correspond to the model drawn up for the product and third country concerned, or, for non-harmonised products, to the Member State concerned;
 - d) that it meets the general principles of certification laid down in Annex IV to Council Directive 2002/99/EC (1);
 - e) that it has been fully completed;
 - f) that it relates to an establishment or vessel authorised or registered to export to the Community, or, for non-harmonised products, to the Member State concerned;
 - g) that it is signed by the official veterinarian or, where appropriate, the representative of the official authority, and shows legibly and in capitals his/her name and position, and also that the official health stamp of the third country and official signature are in a different colour to that of the printing of the certificate, or, for electronic certificates, signature and stamp are made by a secure system;
 - h) that part 1 of the CVED is correctly completed and that the information in it corresponds with information in other relevant official documents accompanying the consignment.

Annex IV to Council Directive 2002/99/EC

GENERAL PRINCIPLES OF CERTIFICATION

1. The representative of the competent authority of dispatch issuing a certificate to accompany a consignment of products of animal origin must sign the certificate and ensure that it bears an official stamp. This requirement applies to each sheet of the certificate if it consists of more than one.
2. Certificates must be drawn up in the official language or languages of the Member State of destination and those of the Member State in which the border inspection takes place, or be accompanied by a certified translation into that language or those languages. However, a Member State may consent to the use of an official Community language other than its own.
3. The original version of the certificate must accompany consignments on entry into the Community.
4. Certificates must consist of:
 - a) a single sheet of paper; or
 - b) two or more pages that are part of a single and indivisible sheet of paper; or
 - c) a sequence of pages numbered so as to indicate that it is a particular page in a finite sequence (for example, 'page 2 of 4 pages').
5. Certificates must bear a unique identifying number. Where the certificate consists of a sequence of pages, each page must indicate this number.
6. The certificate must be issued before the consignment to which it relates leaves the control of the competent authority of the country of dispatch.