

Foss House, Kings Pool,

Peasholme Green,

York

YO1 7PR

E: meathygiene@food.gov.uk

14 November 2022

Dear Sir / Madam,

Definition of Mechanically Separated Meat (MSM)

I am writing to inform you of clarification of the definition of Mechanically Separated Meat (MSM) to be used by the Food Standards Agency in England, Northern Ireland and Wales. These clarifications follow the conclusion of High Court and Supreme Court action regarding the classification of MSM.

The legal definition of MSM under Retained EU Regulation 853/2004 reads: “*Mechanically separated meat or MSM means the product obtained by removing meat from flesh-bearing bones after boning or from poultry carcasses, using mechanical means resulting in the loss or modification of the muscle fibre structure.*”

In line with the 2019 Supreme Court ruling, boning is deemed by the FSA to be “...*the initial process of removal of meat from a carcass...*”. In the 2019 ruling the Court stated “*the definition of MSM in point 1.14 refers to removal of the meat left on the bones of those animals after the initial phase of butchering has taken place*” which means anything after the first cuts.

Therefore, in respect of meat (except poultry) any bone removed from the carcasses or cuts of meat with bones that go through the mechanical separation process after the initial phase of butchering/cutting will result in the production of MSM.

As regards poultry, the position is different as the definition of MSM in point 1.14 simply refers to ‘removal of meat from poultry carcass’, which the Supreme Court confirmed means from the whole body of the bird.

As a result of this clarification, from the date of this letter the FSA will be withdrawing the following documents because they were superseded by the decision of the Court as to the proper interpretation of the definition of MSM:

- The moratorium on ‘desinewed meat’, issued on 4 April 2012.
- The guidance on the moratorium on the production and use of ‘desinewed meat’ from ruminant bones in the United Kingdom, issued on 26 April 2012.
- The guidance on the moratorium on the production and use of ‘desinewed meat’ from non-ruminant bones and poultry carcasses in the United Kingdom, issued on 23 May 2012.

The FSA will now work to draft new guidance which will support Food Business Operators (FBO's) to achieve compliance in line with the regulatory requirements. This new guidance will be subject to a 12-week public consultation prior to implementation.

The FSA is legally obliged to ensure compliance with the applicable legislation by taking appropriate enforcement action if the requirements of Retained Regulation (EC) 853/2004, are breached in premises approved by it, however an enforcement authority has operational discretion to decide upon enforcement priorities. The FSA acknowledges that there may be business impacts associated with the clarification, and that time may be required for Food Business Operators to make necessary adjustments. Having weighed up its duties as a Regulator the FSA has determined that there will be no planned enforcement undertaken at establishments it approves that were applying the guidance to the moratorium at the date of this letter, and where MSM may be incorrectly classified, until the revised guidance is in place.

As part of the future consultation we will be seeking information to:

- Help the FSA develop an impact assessment and to inform the deadlines for legal compliance.
- Assist the FSA in ensuring that any impacting changes based on the decisions are proportionate to any risk.
- Provide industry with an opportunity to consider any necessary changes to their production and alert us to any issues.
- Further engagement with Local Authorities in order to assist them in understanding the position and implications of the MSM requirements.

Further engagement with the meat industry will also continue via the MSM Technical Workstream Group on the implications of the Court Judgments in order to formulate a pathway for compliance with regards to MSM food hygiene legislation.

We are fully committed to maintaining the highest food safety and standards in the interests of consumers. We will therefore also engage with consumers to understand their interest in relation to these products, and this will include their views on the economic costs and implications for food waste in our consideration.

We will write to you again to inform you when the consultation is published. You may have standalone cutting plants approved for MSM, if you do, you may wish to consider and note the FSA position.

Yours sincerely

DA Cutts

Dr Darren Cutts
Team Leader, Meat Hygiene Policy, Food Standards Agency

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