
From: [REDACTED]
Sent: 10 May 2017 14:25
To: [REDACTED] (Defra); [REDACTED]
Cc: [REDACTED] (Defra)
Subject: RE: Article 9 application - Jolly's Circus - Procyon lotor (American raccoons)

Dear [REDACTED]

Thank you for sending this application to us. We had indeed not received it.

Applications for authorisations need to be submitted through our authorisation system, for which you are the registered user for the UK:

<https://circabc.europa.eu/w/browse/b1bb7e07-668b-4765-8d3e-f8d6ab0194d0>

The guidance is available here:

<https://circabc.europa.eu/w/browse/c0a13358-9edf-4104-9a94-b6cb2a353207>

We do not consider that Member States need to defer all applications to the Commission. We expect a MS only to apply for an authorisation if it considers issuing permits for the given request. Indeed the final responsibility lies with the Member State. Article 9(6) states that "*Following an authorisation by the Commission, the competent authority **may** issue the permit...*". The MS could a priori refrain from issuing permits, because for instance permits are not considered necessary for the required activity, or because it is not intending to issue permits for the given request.

In our view the request by the establishment for a permit (and subsequently your authorities' request for an authorisation) is inadmissible because it does not demonstrate an "*exceptional case, for reasons of compelling public interest, including those of social or economic nature*" in order to justify its activities, as required by Article 9(1) of the Regulation.

The application itself raises the question whether there is an infringement of the Regulation 1143/2014. The transfer took place on 12 December 2016, i.e. after 3 August 2016 when the raccoon was listed as an IAS of Union concern. This means that at the time of the transfer, the restrictions under Article 7 of the Regulation applied and raccoons could not intentionally be transferred from one owner to another.

However a practical solution should be given for establishments that cannot/do not wish to keep any longer their animals, including a transfer to other establishments that can ensure keeping of the animals in contained holdings while ensuring that reproduction and escape are not possible. For this, the competent authority should consider such transfer to be an acceptable measure of non-lethal eradication, see as well the definition of eradication under Article 3(13). If you are satisfied that these conditions are met, there is no need for a permit at all, otherwise you should consider applying the penalties provided for in Article 30.

We hope this helps,

The IAS Team

From: [REDACTED] (Defra)
Sent: 05 May 2017 10:58
To: [REDACTED]
Cc: [REDACTED] (Defra)
Subject: Article 9 application - Jolly's Circus - Procyon lotor (American raccoons)

Hi IAS Team

We have had the attached application submitted to us in respect of Article 9 of the EU IAS Regulation. May I apologise for the delay in forwarding this to you – I was under the impression it had already been sent to you, but unfortunately that proved not to be the case.

I am not aware that you have issued specific guidance on how Article 9 applications should be processed. My reading of the Regulation suggests that Member States have no role in considering the merits of these applications so we are under an obligation to refer all applications to you for decision, irrespective of any opinions we may hold. I note that Article 9 also refers to you setting up an electronic system for submitting applications, but has this been set up?

I note that the applicant has not ticked the declaration that “The species will be subject to a surveillance system that remains in continuous operation”. However, this appears to be based on the applicant’s assumption that the surveillance system should result in the species being closely monitored on 24 hr basis. That is not my assumption – I assume what the Regulation requires is that the surveillance system adopted remains in operation throughout the period that these species are under control i.e. the system is not stopped for any reason. On that basis, I think he has provided supporting evidence elsewhere on the form to suggest that this condition will be met.

I would be grateful if you would acknowledge receipt of this application. Please let me know if you require any further information at this point.

Kind regards

[REDACTED]
acte

d]

[REDACTED] | Senior Policy Adviser | Invasive Non-native Species Team | Department for Environment, Food and Rural Affairs | Direct line: [REDACTED] | Email: [REDACTED] | Address: 2nd Floor, Horizon House, Deanery Road, Bristol BS1 5AH.