

Department for the Environment, Food and Rural Affairs

Summary of responses to the consultation on the Eggs and Chicks (England) Regulations 2009 between 13 March and 24 April 2009

July 2009

1. Introduction

- 1.1 In March 2009 Defra launched a consultation seeking views on the implementation of the Eggs and Chicks (England) Regulations 2009. The objective of the Eggs and Chicks (England) Regulations 2009 is to expand the scope of the current legislative controls on eggs marketing to include new *Salmonella*-related controls on eggs intended for human consumption, in accordance with the requirements of the National Control Programme (NCP) for *Salmonella* in laying hens.
- 1.2 The Eggs and Chicks (England) Regulations 2009 will revoke and replace the Eggs and Chicks (England) Regulations 2008. In addition to the existing controls, the purpose of the 2009 Regulations is to enable the obligations which the NCP places on the operators of laying flocks to be enforced at the marketing stage.
- 1.3 The NCP for laying hens was introduced in February 2008 and puts in place the monitoring and controls required by EC Regulations 1168/2006 and 2160/2003. The NCP requires that, from January 2009, eggs shall be considered and marked as Class B if they are:
- i. from flocks of unknown health status (with regard to *Salmonella*);
 - ii. from flocks that are suspected of being infected or that are infected with *Salmonella* Enteritidis or *Salmonella* Typhimurium;
 - iii. from flocks that are linked to a foodborne outbreak of *Salmonella* in humans.

The NCP for laying hens is available at:

<http://www.defra.gov.uk/animalh/diseases/zoonoses/ncp.htm>

- 1.4 Eggs marked as Class B cannot be marketed for human consumption unless they are either heat treated or pasteurised first.

2. Summary and consultation process

- 2.1 In March 2009, Defra launched a consultation exercise seeking views on the Eggs and Chicks (England) Regulations 2009. The consultation presented three options for the imposition of controls on egg marketing as required by the NCP. The options identified in the Impact Assessment were:

Option 1	Reliance on current legislation (Zoonoses Order 2009)
Option 2	Introduce a system of variable monetary penalties with the possibility of a criminal offence penalty
Option 3	Introduction of a criminal offence penalty only

Option 2 was preferred by Defra as the most cost-effective and transparent choice.

- 2.2 We would like to thank everyone who responded to this consultation and we are grateful for all responses received. This summary does not detail all responses submitted but gives an indication of the common themes emerging from the consultation exercise.
- 2.3 In line with Defra's policy of openness, at the end of the consultation period copies of the responses received are made publicly available.
- 2.4 There were a total of four respondents to the consultation, including industry groups and a trading standards group. Whilst this is a low response rate, respondents included the National Farmers Union (NFU) and the British Egg Industry Council (BEIC), which represents producers responsible for 85% of UK egg production.
- 2.5 The responses to the three implementation options yielded the following results:
- **Option 1** was preferred by one of the respondents.
 - **Option 2** was preferred by two organisations.
 - **Option 3** was not preferred by any of the respondents.
 - One respondent did not state a preferred option.
- 2.6 All comments provided by respondents were taken into account. However, Option 2 was supported by the largest proportion of respondents and has therefore been considered to be the favoured option of the egg industry and other stakeholders.

3. Additional questions

3.1 Views were also sought on the following questions:

Q1. Do you agree with the analysis and the costs accompanying the options set out in the Impact Assessment?

Q2. Have any practical enforcement options been left out?

Q3. Do you agree that the benefits of the options are equivalent?

Q3. Do you believe there are ways in which Government can encourage compliance with the NCP which we have not considered?

In response to these additional questions, most respondents preferred to provide more wide-ranging comments.

3.2 **Costs and Impact Assessment**

In general, respondents agreed with the analysis and costs accompanying the options set out in the Impact Assessment. Following the Initial Regulatory Impact Assessment and consultation exercise Defra plans to produce a post-consultation Impact Assessment which will be publicly available via the Defra website.

3.3 **Practical enforcement options**

Respondents did not identify any additional enforcement options to those set out in the consultation.

3.4 **Benefits of the options**

Respondents who replied to this point agreed that the benefits of the three options are equivalent.

3.5 **Encouraging industry to comply with the NCP**

Respondents did not supply additional suggestions beyond those considered by Defra.

4. **The way forward**

4.1 Defra continues to meet with representatives of the poultry industry, including egg and layer sector representatives, on a monthly basis to discuss procedural and technical issues relating to the NCPs and to receive feedback.

4.2 Defra believes that most producers are well prepared for the coming into force of the Eggs and Chicks Regulations 2009. There are already existing requirements for marking of eggs from flocks positive for *Salmonella* Enteritidis and *Salmonella* Typhimurium under the NCP legislation¹. The use of the Eggs and Chicks Regulations 2009 for the enforcement of this existing requirement therefore does not impose any additional costs on producers. The majority of producers are compliant with the NCP legislation. Guidance on the Regulations will be provided to producers via the Defra website prior to their coming into force. The Guidance on the Regulations will also be made available to operators via hard copy.

4.3 Defra plans to review the monetary penalties system after 6 and 12 months of use. The progress of the NCP for laying flocks will continue to be monitored.

4.4 In the case of a positive *Salmonella* result, free advice is available to farmers from experts at the Veterinary Laboratories Agency (VLA), funded by Defra,

¹ Regulation (EC) No. 2160/2003 and Regulation (EC) No. 1237/2007

on action shown to be effective in controlling the problem: rodent control, biosecurity, cleansing and disinfection.

- 4.5 The Code of Practice for the Prevention and Control of *Salmonella* in Commercial Laying Flocks can be downloaded at:

http://www.defra.gov.uk/animalh/diseases/zoonoses/zoonoses_reports/sallay.pdf

A guidance document for egg producers laying down the requirements of the NCP is available at:

http://www.defra.gov.uk/animalh/diseases/zoonoses/zoonoses_reports/ncp-salmonella.pdf

Use of information provided

- 4.6 Results of sampling under the NCP for laying flocks will be collated by Defra and reported to the EU Commission. Defra would not normally release information about the disease status of individual holdings or businesses. However, if a request about the disease status of an individual holding was made to Defra under the Freedom of Information Act then the request would be considered with full regard to the rules of disclosure set out by the Act.
- 4.7 A key issue to be considered would be whether disclosure meets a public interest test, i.e. whether the public benefit of disclosure outweighs the negative impact on the individual.