

Executive Summary

The proposed Transmissible Spongiform Encephalopathies (England) Regulations 2008 would revoke and replace the existing Transmissible Spongiform Encephalopathies (No.2) Regulations 2006. The proposed new Regulations include amendments that have been made in response to changes to EU legislation (EC Council Regulation 999/2001) and as a result of experience gained in administering the 2006 Regulations since they came into force.

Please note that this consultation does not cover those provisions of EC Regulation 727/2007 which were suspended by an interim judgement of the European Court of Justice (ECJ).

In addition the proposed Regulations would reflect the outcome of Defra's consultation on responsibility and cost sharing for animal health and welfare, which was issued on 11 December 2007 (available at <http://www.defra.gov.uk/corporate/consult/ahw-nextsteps/index.htm>). This includes a proposal that abattoirs should pay for BSE tests and a proposal that laboratories that wish to carry out BSE tests should pay for the costs incurred by the Veterinary Laboratories Agency (VLA) in approving and quality assuring them. The impact assessment for these two provisions, and for other BSE proposals in the responsibility and cost sharing document that would come into effect at a later date if agreed, is available at the link above.

A further technical amendment will also be made to incorporate into these Regulations the provisions of the Bovine Products (Restriction on Placing on the Market) (England) (No 2) Regulations 2005 as amended. This is a de-regulatory measure which will see the revocation of the existing Food Standards Agency (FSA) legislation.

Background

The Transmissible Spongiform Encephalopathies (No.2) Regulations 2006 (as amended) came into force on 3rd May 2006. They provide the necessary powers to administer and enforce the provisions of Regulation (EC) 999/2001 concerning the prevention, control and eradication of TSEs.

A fuller explanation of the changes and a Partial Impact Assessment can be found at the links given at the end of this document.

Key changes

- The possible inclusion of legal powers to allow the VLA to charge private BSE testing laboratories for approval and annual quality assurance, as proposed in the separate Defra consultation on responsibility and cost sharing.
- Regulation 8 (2): New sub-paragraph to allow the Secretary of State to amend a Required Method of Operation (RMOP) to reflect technical or scientific developments in relation to the processing of OTM cattle.
- Regulation 13: Powers of entry will be clarified.

- Regulation 21: The Transmissible Spongiform Encephalopathies (No. 2) Regulations 2006 will be revoked.
- Schedule 2, Part 1, paragraph 3(1) (b): This new paragraph will make it an offence to submit a brain stem sample for testing if the bovine from which it was taken cannot be identified.
- Schedule 2, Part 1, paragraph 5(3) (b): Following a change to procedures when the approved BSE testing laboratory issues a “no test” result, the 2006 Regulations will need to be amended to clarify the action to be taken in the abattoir.
- Schedule 3, Paragraph 5(2): This will provide a right of appeal on any decision to cull a cohort animal following an inspector’s rejection of evidence alleging that the animal did not have access to the same feed as an animal affected with BSE.
- Schedule 3, paragraph 10 (3): This will be amended to require the owner of a BSE suspect or cohort animal to pay for valuation fees, in line with practice elsewhere in the domestic TSE legislation.
- Schedule 4, new paragraph 9: This will enable the Secretary of State to apply the options available of monitoring or whole flock/herd cull where atypical scrapie is confirmed. It will set out the provisions for administration of the options and the conditions that occupiers will need to comply with.
- Schedule 5: A new schedule will be added to address the Community obligations of Article 11 (Notifications) and Article 12 (Suspect Animals) of Regulation (EC) No 999/2001 in relation to the suspicion of TSE in non-bovine, non-ovine and non-caprine animals (specifically in relation to deer).
- Schedule 6, paragraph 20: This will extend the current labelling and documentation requirement for certain feedingstuffs
- A further technical amendment will also be made to incorporate into these Regulations the provisions of the Bovine Products (Restriction on Placing on the Market) (England) (No 2) Regulations 2005 as amended.

General Issues

These proposals may be subject to some amendment in response to comments received during the consultation period.

Separate consultations on proposals to make similar changes in Scotland, Wales and Northern Ireland are being carried out in those countries.

The Partial Impact Assessment, and a fuller explanation of the changes, can be viewed online at <http://www.defra.gov.uk/corporate/consult/tseregs-2008/>