

# British Frozen Food Federation



## T&L update 52

May 2009

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## Food Information Regulation

The EU Commission's proposal for a new food information regulation was introduced in January 2008 and is being dealt with under the EU's co-decision procedure, requiring consideration and agreement by both European Council and European Parliament.

The Environment, Public Health and Food Safety Committee (ENVI) is the Parliament's lead committee, with formal opinions also coming from two other Parliamentary committees - the Committee on the Internal Market and Consumer Protection (IMCO), and the Committee on Agriculture and Rural Development (AGRI). The IMCO and AGRI opinions have been finalised, but **consideration by the ENVI Committee is being delayed and will not now be completed until after the new Parliament is in place following the European elections being held in June.**

The ENVI Committee was due to debate the draft report from rapporteur Renate Sommer, together with other amendments that had been tabled by members of the committee, on 16 March, with a vote to follow on 31 March. However, a total of more than 750 amendments had been proposed to the Commission's proposal, with agreement on the main issues appearing impossible to achieve.

Difficult areas to resolve include front of pack nutrition labelling, including the option for national schemes, and country of origin labelling.

**The rapporteur therefore invoked parliamentary rule 185 (article 5) to delay the procedure and allow her to draft a new report in which she will 'take account of as many of the amendments as possible'.** The Committee members will again be able to table amendments to the new draft report.

### Rule 185 Voting in committee

5. In the light of the amendments tabled, the committee may, instead of proceeding to a vote, request the rapporteur to submit a new draft taking account of as many of the amendments as possible. A new deadline shall then be set for amendments to this draft.

**It is not possible for the revised procedure to be completed within the timescale of the present parliament, and the new report is therefore expected to be considered by a new ENVI Committee in the autumn, effectively introducing a delay of at least six months.**

Copies of the Parliamentary texts can be accessed from the links below:

- Draft ENVI report (Rapporteur Renate Sommer), includes Amendments 1-143  
<http://tinyurl.com/ovdmse>
- Amendments 144 - 310  
<http://tinyurl.com/ptytlr>

- Amendments 311 - 543 - Part II  
<http://tinyurl.com/qav418>
- Amendments 544 - 648 - Part III  
<http://tinyurl.com/o3mu2j>
- Amendments 649 - 751 - Part IV  
<http://tinyurl.com/qzyxnw>
- IMCO opinion (Rapporteur: Bernadette Vergnaud), includes 95 Amendments  
<http://tinyurl.com/qlkzey>
- AGRI opinion (Rapporteur: Giovanna Corda), includes 118 Amendments  
<http://tinyurl.com/pvuvhu>

**Meanwhile the Council continues to discuss the Commission's proposal through a working party of member state representatives, currently under the Czech presidency of the EU.** The Food Standards Agency in turn continues to provide update reports of developments in the working party.

A copy of the Commission's proposal, amended in line with the working party discussions to date, and as tabled at the meeting of the working party on 27 April, can be accessed from the Europa website at <http://tinyurl.com/p2njkb> (document reference 8316/09, 6 April 2009).

The positions of individual delegations on various issues are summarised in the footnotes to the text, but the EU approach to openness is such that it does not allow delegations to be identified by member state name in this publicly available text.

Areas highlighted recently by the FSA in its update reports include:

- Article 8 - Responsibilities of food business operators at each stage of the food chain
- Article 14 - Clarity: a proposal has been tabled introducing a minimum font size based on the 'x' height (essentially the height of a lower case 'x') and a list of other factors that affect clarity
- Article 15 - Distance selling
- Article 18 and Annex V - Name of the food
- Article 19 and Annex VI - Ingredient listings
- Article 20 - Ingredient listings on alcoholic drinks
- Article 24 and Annex VIII - Net quantity
- Article 25 - Minimum Durability (Best before and Use by)
- Article 41 - Non-prepacked food
- Nutrition Labelling - forms of expression and expression on a per portion basis as well as the presentation of the nutrition declaration
- National (Voluntary) Schemes

During the discussions on Net Quantity (Article 24 and Annex VIII), the Commission presented to the Working

Group a paper by the International Organisation of Legal Metrology (OIML) setting an international standard for measuring the net quantity of foodstuffs. Consideration is being given to whether this 'standard' should be in some way incorporated into the food information proposal.

A copy of the Paper OIML R87, 'Quantity of product in prepackages' can be downloaded from the OIML website as <http://tinyurl.com/332k64>

The paper takes the form of an 'International Recommendation'. Such Recommendations are generally described as model regulations that establish the metrological characteristics required of certain measuring instruments and which specify methods and equipment for checking their conformity; "the OIML Member States shall implement these Recommendations to the greatest possible extent."

At the Working Group meeting at the end of May, the UK was due to present the findings of its independent evaluation of the various front-of-pack nutrition signposting schemes currently on the market.

The meeting was also due to finalise the Presidency's progress report, which will be sent to the Agricultural Council on 25/26 June. The meeting at the end of May was the last meeting under the Czech Presidency and the Swedish delegation was expected to outline the timetable to be followed under the Swedish Presidency, which starts on 1 July.

### **Food Labelling Regulations (Amendment) Bill**

Readers may already be aware that in the UK the Conservatives have introduced to Parliament a Private Members Bill - the Food Labelling Regulations (Amendment) Bill. This would amend the 1996 Food Labelling Regulations, to introduce compulsory country of origin labelling for the meat component of meat products.

The Bill is part of the Conservative Party's 'Honest Food' campaign - further details are available from <http://tinyurl.com/qkdpoo>

This provides links for

- the five worst examples of food labelling
- current examples of unclear and misleading labelling
- policy document - Food labelled 'British' should be born and bred in Britain
- leaflet - Food labelled 'British' should be born and bred in Britain
- text of the Food Labelling Regulations (Amendment) Bill
- Explanatory Notes to the Food Labelling Regulations (Amendment) Bill

The Bill was introduced to the House of Commons on 17 March. The text of the debate can be accessed at <http://tinyurl.com/pox4vg>. The second reading is scheduled for Friday 16 October.

The Conservative Bill may or may not be 'legal' in terms of EU law, but is in any case unlikely to progress further.

### **FSA strategy: 2010 to 2015**

The Food Standards Agency has been consulting stakeholders in connection with the development of its Strategic Plan for the period 2010 to 2015. Full details are available on the FSA website from <http://tinyurl.com/qv4nr1>

The FSA says that in this consultation it has been unveiling proposals for the strategic direction for the Agency to 2015.

"This will lead to a set of priorities for action that not only reflect the changing environment in which we work, but also the progress we have made in key areas of activity to date and where we believe we can continue to make a real impact on public health in the UK."

"We recognise the importance of collaborative working with partners and stakeholders to develop the best possible outcomes for all people in the UK. We want our strategy to be developed and shared with those partners and stakeholders who have a role and interest in delivering food safety and other public health outcomes. It is only through good working partnerships and stakeholder engagement that we can meet our objective of protecting UK consumers from unsafe food, and continue to play a leading role in improving the health of the nation through encouraging consumers to make informed choices about eating healthily."

The Agency says that its core values will continue within its new strategy:

- putting the consumer first
- openness
- independence
- being science and evidence-based

and that it has embarked on a substantial change programme called 'One Agency' that sets out to ensure the FSA and MHS are equipped to meet future challenges.

"Our new strategy is an important programme of work within One Agency, along with programmes supporting improved delivery, culture and structure. In developing our proposals for 2010 to 2015 we are being realistic about our resources, and we are using an evidence-based approach to

support prioritisation of our activities, as well as making efficiency savings in how we work. Our final Strategic Plan will indicate the resources that will be needed to achieve our plans."

The Agency adopted the purpose '**Safe Food and Healthy Eating for All**' in 2007, and its new strategy has been designed around this as it is said to encapsulate the Agency's desire to concentrate efforts where it can have most impact on improving public health. **To support this purpose the FSA has designed a number of strategic objectives and outcomes. There are two strategic objectives - 'improve food safety' and 'improve the balance of the diet', with seven clear outcome focused propositions to describe how the Agency and its stakeholders should view success against these two broad aims.**

Within each outcome there are proposed priorities, which the FSA thinks it should concentrate on during the period 2010 to 2015

<b>Purpose</b>
<ul style="list-style-type: none"> <li>• Safe Food and Healthy Eating for All</li> </ul>
<b>Objectives</b>
<ul style="list-style-type: none"> <li>• Improve food safety</li> <li>• Improve the balance of the diet</li> </ul>
<b>Outcomes</b>
<ul style="list-style-type: none"> <li>• Imported food entering the UK market is safe to eat</li> <li>• Food produced or sold in the UK is safe to eat</li> <li>• Consumers make informed choices about food safety when eating outside the home, prepare and cook food safely at home</li> <li>• A proportionate, risk-based regulatory regime relating to food, which is clear about the responsibilities of food business operators and others, and which generates public confidence in food</li> <li>• Retail products and catering meals are healthier</li> <li>• Retailers, manufacturers and caterers provide the nutrition information consumers need to make healthy choices</li> <li>• Consumers understand about food and a healthy diet, prepare and cook healthy meals at home</li> </ul>

Listed under the 'Outcome' of '**Imported food entering the UK market is safe to eat**' are:

- Increase horizon scanning and forensic knowledge & intelligence of global food chain
- Apply enhanced knowledge and understanding of imported food risks to controls at ports
- Monitoring of imports at retail & food services

Listed under '**Retail products and catering meals are**

**healthier'** are:

- Continued reductions in saturated fat, salt and sugar in mainstream products
- Greater availability of healthier options in retail and food services
- Increase the pace of change in eating out settings
- Understanding dietary habits and nutritional status of the UK population; modelling the effect of changes to consumer habits and products

Listed under '**Retailers, manufacturers and caterers provide the nutrition information consumers need to make healthy choices**' are:

- A single, simple and effective front of pack labelling approach adopted by the whole food industry
- Increased provision of nutrition information in a wide range of catering outlets

### Front of Pack Labelling

The independent group of experts who have led the FSA's front-of-pack (FOP) nutrition signpost evaluation project have published their final report.

The group, known as the Project Management Panel (PMP), is responsible for assuring the integrity and robustness of the study, the aim of which was to evaluate the impact of the various FOP nutritional signposting schemes on consumer understanding and behaviour. The research was conducted by BMRB in association with the Food, Consumer Behaviour and Health Research Centre at the University of Surrey.

The FSA summarises the main conclusions from the research:

- A single FOP scheme would be most helpful for shoppers, as the presence of different types of FOP labelling schemes in the marketplace causes shoppers difficulties in using them.
- Overall, the balance of evidence demonstrated that the strongest FOP label is one which combines use of the words 'high, medium, and low', traffic light colours and percentage of Guideline Daily Amount (GDA), in addition to levels of nutrients in a portion of the product.
- Shoppers who use FOP labels value them; they use them particularly if they are shopping for children, comparing different products, if they have a particular health concern (e.g. high blood pressure or diabetes), or if watching their weight.
- There is a generally high level of understanding of FOP labels, even among those who don't tend to use them, which suggests that raising awareness of a single scheme could encourage increased use of FOP labels when buying food.

Full details are on the FSA website at <http://tinyurl.com/dbruvf>

**The extract below from the summary and conclusions in the report itself gives a slightly fuller picture.**

The Executive Summary, available from the web address above, is aimed at the non-technical reader. More detailed summaries are provided at the beginning of each chapter of the main report.

#### **FLABEL Results on nutrition labelling penetration**

The first results from the EU-funded project FLABEL (Food Labelling to Advance Better Education for Life) have been published. Following 6 months of research, in 28 countries (27 EU Members States & Turkey), more than 35,000 products have been audited to determine

the penetration of nutrition labelling in Europe.

Using a standardised analytical methodology, the number of products with nutrition information on pack (front and back), the main types of systems used in each country, the prevalence of nutrition and health claim usage, and the prevalence of nutrition information on products that are attractive to children, were assessed in 5 product categories (biscuits, chilled ready meals, carbonated soft drinks, breakfast cereals, yoghurts).

The results from this study were presented via a webinar on 30 April, but can now be accessed from the Internet at <http://tinyurl.com/odq82r>. Available to watch or download is a video of the main session, together with audio versions of both the main session and the question and answer session.

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### **Comprehension and use of UK nutrition signpost labelling schemes (May 2009)**

Prepared for: Food Standards Agency

Prepared by: BMRB Social Research

In association with: The Food, Consumer Behaviour and Health Research Centre at the University of Surrey

The aim of this research was to establish which FOP labelling scheme(s), or which combination of elements of schemes, best facilitate the accurate interpretation of key nutritional information by consumers such that they are enabled to make informed choices about the foods they purchase.

**The research addressed three key questions:**

1. How well do individual signpost schemes enable consumers to correctly interpret levels of key nutrients? While the impact of, e.g. time constraints, on comprehension were to be considered in this part of the research, it did not involve testing comprehension in real life contexts.

2. How do consumers use FOP labels in the retail environment and at home? The aim of this part of the research was to explore use in real life contexts.

3. Does the coexistence of a range of FOP label formats affect accurate interpretation of FOP labels?

**The research focused primarily on the three key content-related signposting elements:**

- Traffic Lights (TL),
- interpretive text (high, medium, low) and
- % GDA.

As a secondary concern, the impact on comprehension of the presence of energy (in the form of calories) and of the type of product (meal sized portion or smaller portion) were tested. The use of a circular presentation format (similar to that used by Sainsbury's) and the use of pastel (non-signposting) nutrient-specific colours (similar to that used by Tesco) were also considered, in

the form each currently appears in the marketplace.

**Some conclusions:**

- [Based on these findings], therefore, two labels outperformed the rest: i) Text & TL, and ii) Text, %GDA & TL.

but

- The balance of evidence therefore favours the inclusion of %GDA, which suggests the label that would most useful to shoppers in terms of accurate interpretation would include text, TL and %GDA.
- Whilst the observational work identified disadvantages of the use of non-signposting colour, and of the use of a circular presentation, these presentational changes did not result in lower levels of comprehension in the quantitative testing.
- The generally high levels of comprehension, even among those who do not currently use FOP labels, provides a good starting point from which to address barriers to FOP label use.
- Shopper preference alone is not a reliable basis on which to design FOP labels.
- The circular traffic light was well liked despite not being well understood. This could indicate a need for communication and reassurance for such shoppers should a single format of FOP label other than the circular TL be introduced.
- Labels were more likely to be used in the retail environment than in the home. Comparisons of products were more common than single product evaluations when shopping.

- Shoppers in the accompanied shops and bag audits often gave precedence to other information on the packaging, such as health claims, pictures, and detailed back of pack information on ingredients, additives etc. This information could result in the shopper not even noticing the FOP label; this may reflect concerns expressed by shoppers that FOP labels were seen as too small to read easily. Even if the FOP label was noticed, other packaging information, or factors such as price could be seen as more important and the FOP label information ignored. Furthermore, the way the information was presented in relation to portion size was a barrier to comprehension for some shoppers.
- Some shoppers in all elements of the qualitative work expressed a fundamental distrust of food labelling, and its aims. Some did not welcome being told what they should and should not eat, whilst others thought that the information on FOP labels might be manipulated by manufacturers and retailers, only showing 'favourable' information. Persuading these shoppers otherwise could be difficult, and pose a potential barrier to widening FOP label use.
- Some shoppers' lack of understanding of nutrition, healthy eating and FOP nutrients (i.e. health literacy) are a barrier to successful interpretation and use of FOP labels, and this would need to be addressed before FOP could help inform food choice in these individuals.

- The coexistence of a range of FOP labels in the market place creates considerable difficulty in comprehension for shoppers. This suggests that standardising to just one label format would enhance use and comprehension of FOP labels.

#### Overall conclusions

The main conclusion from the research is that, although levels of comprehension are generally high for all FOP labels, the coexistence of a range of FOP label formats in the marketplace causes difficulties for shoppers. This suggests, that standardising to just one label format, would enhance use and comprehension of FOP labels. Overall the balance of evidence from the research shows that the strongest FOP labels are those which combine text (high, medium, low), traffic light colours and %GDA information.

Shoppers who use FOP labels value them, but FOP labels will always compete with other factors when shoppers are making purchasing decisions; these decisions are likely to be perfectly considered and are probably not susceptible to influence. However, there is clear evidence that some groups are less likely than others to use and understand FOP labels and there may be scope for increasing both comprehension and use (for certain purchasing decisions), among at least some of these groups. The generally high levels of comprehension, even among those who do not currently use FOP labels, provides a good starting point from which to address barriers to FOP label use.

### Food Fraud Advisory Unit

The Food Standards Agency has established a new advisory resource to support local authorities in their work to tackle food fraud. The Food Fraud Advisory Unit (FFAU) is a group of 16 officials with extensive skills and experience in carrying out food fraud investigations, most of whom are practicing local authority enforcement officers. The FFAU members have agreed, with the support of their employers, to provide advice, on request, to any UK local authority involved in investigating food fraud. This could include any illegal activity relating to food or feed.

The FSA defines food fraud as follows:

**Food Fraud is committed when food is deliberately placed on the market, for financial gain, with the intention of deceiving the consumer.** Although there are many kinds of food fraud the two main types are:

- the sale of food that is unfit and potentially harmful, such as:
  - recycling of animal by-products back into the food chain
  - packing and selling of beef and poultry with an

unknown origin

- knowingly selling goods that are past their use by date
- the deliberate misdescription of food, while not necessarily unsafe, deceives the consumer as to the nature of the product, such as:
  - products substituted with a cheaper alternative, for example, farmed salmon sold as wild, and Basmati rice adulterated with cheaper varieties
  - making false statements about the source of ingredients, i.e. their geographic, plant or animal origin

Full details, including the terms of reference for the FFAU are available from the FSA website at <http://tinyurl.com/qays7s>

The FSA says that the FFAU builds on and takes over the work of the Illegal Meat Task Force (IMTF), following five years of significant success in supporting illegal meat investigations. The wider remit of the new unit, which retains some of the membership of the IMTF, addresses the need for a more diverse investigative resource.

It also notes that the success of this work relies heavily on the input of local authorities, industry and consumers to let the Agency know if they are aware of suspected or known food or feed fraud. A dedicated email address and telephone hotline have been set up for reporting food and feed fraud to the Agency.

### **The Food Safety Act 1990 A Guide For Food Businesses**

The Food Standards Agency has published 'The Food Safety Act 1990 - A Guide For Food Businesses', following a consultation exercise carried out between April and July 2008 (ref 2008/03/M, 21/04/08).

Copies can be downloaded from the FSA website at <http://tinyurl.com/dfcasp>

The Guidance Notes are applicable to England, Scotland and Wales, and are intended to provide regulatory guidance on the Food Safety Act 1990, in the light of amendments to the Act and other relevant legislation.

[Similar legislation exists in Northern Ireland, the Food Safety (Northern Ireland) Order 1991. FSA Northern Ireland is producing a separate guide to this order.]

**This guide updates and replaces the previous guide "The Food Safety Act 1990 and You", which was first issued in 1996 and reprinted in 1997 and 1999.** The FSA says that it focuses on the aspects of the Act which are of most significance to food businesses:

- what the Act requires;
- the offences under the legislation and possible defences;
- other actions which can be taken by food authorities;
- possible defences to these actions.

**The Guide includes the advice for managers of medium-sized and larger food businesses to read the guide in detail and to make the information about the main offences known to all relevant staff.**

Small businesses should all note their responsibilities listed at the end of the introduction and use the rest of the guide to help them better understand these, and for reference about the defences to any legal action and the powers available to enforcement officers.

The legislative changes that have made necessary the updating of this guide are summarised in paragraphs 8 and 9:

"Since 1999 there have been significant changes in food safety law in the United Kingdom. In particular, the European Union (EU) adopted the General Food Law Regulation (Regulation (EC) 178/2002), which came fully into effect in 2005. This Regulation created new laws on food safety, traceability, withdrawal and recall of

products. Offences for breaches of these laws have been put into effect in Great Britain by the General Food Regulations 2004, which has also made changes to the Food Safety Act 1990 itself. In addition, the Food Safety Act 1990 (Amendment) Regulations 2004 changed the definition of "food" in the Food Safety Act to bring it in line with Regulation (EC) 178/2002. Guidance Notes on the General Food Law Regulation (EC) 178/2002 were published in 2007. These are available at <http://www.food.gov.uk/foodindustry/guidancenotes/foodguid/generalfoodlaw>. (small businesses may wish to refer in particular to the summary at paragraph 8 of those Guidance Notes).

"Food hygiene requirements for businesses are made under powers given by the Food Safety Act 1990 and the European Communities Act 1972 rather than in the Act itself. These are dealt with separately under food law and are covered by the Food Hygiene Regulations 2006 (as amended). There is detailed guidance on food hygiene legislation at <http://tinyurl.com/bjshlz>. Most hygiene enforcement provisions are now made under this legislation rather than the Act. Other legislation made under the Act is not covered in this guide."

The body of the guide is in a familiar question and answer style - see Annex to this note.

The main responsibilities for all food businesses under the Act are summarised as:

- to ensure you do not include anything in food, remove anything from food or treat food in any way which means it would be damaging to the health of people eating it
- to ensure that the food you serve or sell is of the nature, substance or quality which consumers would expect
- to ensure that the food is labelled, advertised and presented in a way that is not false or misleading

The body of the guide is in a familiar question and answer style. Questions are listed below.

### **The Food Safety Act 1990 - A Guide For Food Businesses**

#### **Main Aims, Scope And Duties**

- What is the Food Safety Act 1990?
- What does the Act aim to achieve?
- What is the scope of the Act?
- Does the Food Safety Act stand alone?
- What does the Act mean by 'food'?
- What activities are covered by the Act?
- Does the Act affect farmers and growers?
- What does the Act mean for food importers?
- What does the Act require food businesses to do?

## Commission Working Group on food hygiene legislation

### The Main Offences.

- What are the main offences under the Food Safety Act?
- What is meant by 'rendering food injurious to health'? (section 7)
- When is food 'not of the nature or substance or quality demanded'? (section 14)
- How can food be 'falsely or misleadingly described or presented'? (section 15)
- What penalties can be imposed under the Act?

### Defences To The Offences Under The Food Safety Act 1990

- What is the legal defence of 'due diligence'?
- Can retailers of 'own label' products offer the defence of 'due diligence'?
- Can retailers of 'branded' goods offer the defence of 'due diligence'?
- What other defences are there?

### Enforcing The Act

- Who enforces the Act?
- What is the role of the Food Standards Agency?
- What is the role of Local Government?
- What are the roles of public analysts and food examiners?
- How is the Act enforced?
- What powers of entry do authorised officers have?
- What is meant by 'premises'?
- What are the limits to the authorised officers' powers of entry?
- Can officers disclose all the information they find during a visit?
- Can authorised officers take samples of food?
- What happens if authorised officers find suspect food?
- What happens if food is seized but then not condemned?
- What other powers may be used under the Act by authorised officers when inspecting food premises?
- What are emergency control orders?
- What are Food Alerts?
- Is there an appeals procedure against actions under the Food Safety Act?

The Food Standards Agency has provided a further update report on the Commission Working Group on Hygiene Legislation, for the meeting held on 29 April. This can be found on the FSA website at <http://tinyurl.com/ohos5z>

A wide range of issues were considered at the meeting, but readers may wish to note the following items reported on under 'Any other Business':

#### (i) Proposals on the labelling of frozen foods with date of freezing and traceability requirements

"The Commission updated Member States concerning proposed Regulations (SANCO 1489/2007 and SANCO 1490/2007). No agreement reached within the Commission on impact assessments and administrative burdens. To be discussed further within the Commission."

These two proposals have been under consideration for some time, but the Commission reported at the October 2008 meeting of the working Group "that the proposals on frozen products of animal origin and the traceability of food of animal origin have had to be referred to the Commission unit dealing with Impact Assessments. The unit is seeking more detail and the proposals cannot proceed until they have been cleared internally."

Copies of the relevant texts are available as follows:

(a) Draft Commission Regulation ... laying down implementing measures regarding the application of traceability requirements in respect of food of animal origin under Regulation (EC) No 178/2002 of the European Parliament and of the Council [SANCO/1490/2007 Rev 8 - <http://tinyurl.com/ppjw78>]

(b) Draft Commission Regulation ... amending Regulation (EC) No 853/2004 of the European Parliament and of the Council as regards the requirements applicable to frozen food of animal origin intended for human consumption [SANCO/1489/2007 Rev 9 - <http://tinyurl.com/c4papg>]

#### (ii) Temperature control requirements for products of animal origin (POAO)

"Some Member States raised this issue alluding to the scope for further rationalisation within the hygiene legislation and also the proposals from DG AGRI in relation to marketing standards. This will be discussed further at the next meeting. The Commission will consider circulating a non-paper to inform discussions."

#### (iii) Commission guidance on Regulations 852/2004 and 853/2004

"The Commission reported that the most recent amendments have not yet been published as they have yet to be translated from English."

The revision 6 texts that were approved earlier this year can be downloaded as follows:

852/2004 Guidance - <http://tinyurl.com/pz6cj4>

853/2004 Guidance - <http://tinyurl.com/owhtrj>

**Under Agenda item 1 (Proposed amendments to the hygiene regulations), issues discussed included:**

- Crocodile meat
- Biotxin limits for products processed from LBMs (LBM = Live Bivalve Molluscs)
- Fishery products to which additives are added
- Whole fish in brine
- Classification of areas for marine gastropods
- Packages of LBMs for retail
- World Organisation for Animal Health (OIE) listed diseases

### Defra Food Policy Unit

Defra has provided updated information on its new structure in areas related to food issues.

Defra writes that the team working on food has expanded significantly, following the changes to departmental responsibilities which took place in October last year. The team is almost fully staffed, and Defra has provided details for the new Food Policy Unit, and a chart showing other Defra teams working on food issues.

**The new Food Policy Unit includes all staff in the former Food Hub and the Food Chain Programme.**

"In October last year DECC was created and the Prime Minister asked the Secretary of State to expand Defra's role on food, and to co-ordinate food policy across Whitehall. The background which led to this was in part the Prime Minister's Strategy Unit report Food Matters (which called among other things for more joined up policy on food); and in part the concerns which came to the fore last year over the price and availability of food, here and overseas.

"To support Defra's new role, we have a new Cabinet Subcommittee on food which the Secretary of State chairs and an independent a Council of Food Policy Advisors chaired by Dame Suzy Leather. Defra has agreed a new Departmental Strategic Objective (DSO 7) which is 'a sustainable, secure and healthy food supply'."

"The new Food Policy Unit will work towards that objective, and will contribute to our other objectives, chiefly DSO 6 of 'a thriving food and farming sector with an improving environmental impact'. It includes all staff in the former Food Hub and the Food Chain Programme. The

Programme will close at the end of May and its work will continue as part of the new Unit, refocused around our new objective."

### FSA Guidance

Following a Review of FSA guidance and in response to a recommendation from the Anderson Review of Guidance, the FSA has produced a list of all its current external guidance as a pdf document. This will be updated every six months.

The current listing (March 2009) includes more than 200 entries and can be downloaded from the same FSA webpage that provides access to individual guidance documents (at <http://tinyurl.com/po3ux2>)

For each entry the listing shows

- Date last published
- Target audience
- Type of guidance - generally Regulatory / Best Practice / Both / Information Only
- Planned review - this may be a specific date, or may be subject to progress with other developments (eg 'Next review is pending completion of / results of EU Food Information Proposal')
- Link to FSA website

#### The Anderson Review

The Anderson Review was carried out for BERR. Its report '**The Good Guidance Guide: Taking the uncertainty out of regulation**', was published in January 2009. Details are available from the BERR website at the following address: <http://tinyurl.com/cxmn38>

### FSA Proposed consultations

The FSA website now carries a list of proposed consultations that is intended to aid stakeholders by providing advance notification of consultations the Agency expects to publish on it's website in the near future. The list is available from <http://tinyurl.com/p75kz9>

A number of consultations of real interest to members of the Federation are listed - see table over page - but the following caution from the FSA should be noted:

"The proposed list is subject to change however, and some proposed consultations may even be withdrawn completely. The fact that a proposed consultation appears on the list should not therefore be taken as an indication that the consultation will actually proceed."

Enforcement of EC Regulations on Food Improvement Agents	EC Regulations on food additives and on flavourings, which clarify and update existing legislation. Also new EU-wide Regulations on food enzymes and on a Common Procedure for Authorisation of additives, flavourings and enzymes.	June 09
Review of the Agency's Recommendations for Front of Pack Nutritional Signpost Labelling	As titled.	June 09
Fish Labelling Amendment England Regulations 2009	Amends the Fish Labelling Regulations 2003 by creating a new list of commercial designations for fish	June 09
Meat Products (England) (Amendment) Regulations 2009	Part of the admin burdens reduction exercise follow up - consultation on draft SI amending the Meat Products Regulations, specifically regulation 5 concerning the name of the food provisions.	June 09
The Official Feed and Food Controls (England) Regulations 2009	The Regulations will give effect to new European Commission Regulation on controls of feed and food of non-animal origin imported from third countries which represent a known or emerging risk. It is proposed that the Regulations are also amended to extend the 'information gateway' to include Her Majesty's Customs Revenue and Customs and the UK Border Agency and to update the Regulations with minor technical amendments.	July 09
Guidance to compliance with Regulation (EC) 1924/2006 on nutrition and health claims made on foods	Update and amendment of guidance to compliance	Aug/Sept 09
Review of communication routes during incidents	To consider the communication routes available during incidents and the criteria applied when deciding on which route to use. Also to establish whether the Agency is being consistent in its approach regarding the issue of alerts, web stories, press releases and letters	Aug 09
Draft Food Hygiene (England) Regulations (Amendment) 2009	These England Regs will give effect to a number of Community regulations published in the EU Official Journal on the 20 October 2008 which will amend the EU food hygiene regulations	Summer 09
The Recycled Plastic Materials and Articles in Contact with Food (England) Regulations 2009 (working title only)	The 2009 Regulations will make provisions for the Enforcement of Commission Regulation (EC) No 282/2008 in England by the enforcement authorities	Autumn/Winter 2010

### LACORS statement on voluntary calorie declarations at catering outlets

Readers will be aware that a number of catering companies have agreed with the FSA to provide calorie information on their menus (<http://tinyurl.com/dklo4v>)

LACORS has now formulated a statement in consultation with local authorities on such voluntary calorie declarations at catering outlets. Full details are available from the LACORS website at <http://tinyurl.com/og9tkz>

LACORS writes as follows:

"At a recent meeting LACORS received a number of queries from the food industry about what enforcement approach would be taken by local authorities towards voluntary calorie declarations in catering outlets. The food industry are concerned that their involvement in the voluntary calorie scheme will subject them to increased, and potentially disproportionate, enforcement action from local authorities."

"The FSA have also contacted LACORS because

similar concerns have been raised directly with them on a number of occasions. As a result, the FSA have requested that LACORS put together a position statement about the voluntary calorie declaration scheme that may help to reassure the food industry."

"LACORS have formulated the statement available below in consultation with local authorities. The draft statement was circulated to our Trading Standards Policy Forum, Environmental Health Policy Forum and Food Labelling Focus Group for comments."

"We have sent this to the FSA to inform their ongoing discussions with the food industry about the voluntary calorie declaration scheme at catering outlets. The statement will be shared openly with industry, and published on the FSA website."

**The following extract is taken from the full statement:**

Councils provide support for food businesses to promote compliance with a range of legislation. Although the requirement to provide calorie declarations at catering outlets is voluntary, there is legislation in place to ensure that any information provided by a business is not misleading for consumers. Catering businesses that choose to provide calorie declarations will therefore need to develop, and implement, processes to ensure that calorie declarations are as accurate as possible. Councils acting as home / primary authorities for food businesses can provide guidance on such processes, including acceptable methods for measuring calories and portion control.

Councils take a risk based approach to visiting food businesses and enforcement activity. The focus of enforcement is supporting businesses to comply with legislation. Formal enforcement action is focused at serious deliberate, and most often persistent, non compliance.

### **FSA Incidents report published**

The Food Standards Agency has published its third Annual Report of Incidents, covering the year 2008. This is available from the FSA website at <http://tinyurl.com/o47g5s>

In 2008, the Agency investigated 1,298 incidents in the UK, 14 of which were classified as high-level. High-level incidents included melamine in dairy products from China and dioxins in Irish pork - a full list of all 14 high level incidents is included below. A total of 149 Alerts were issued by the FSA (including 59 Allergy Alerts).

The FSA uses the following definition of an incident:

**'Any event where, based on the information**

**available, there are concerns about actual or suspected threats to the safety or quality of food that could require intervention to protect consumers' interests.'**

Incidents fall broadly into two categories:

- incidents involving contamination of food or animal feed in the processing, distribution, retail and catering chains. These incidents may result in action to withdraw the food from sale and, in certain circumstances, to recall, alerting the public not to consume potentially contaminated food
- environmental pollution incidents e.g. fires, chemical/oil spills, radiation leaks, which may involve voluntary or statutory action (such as orders made under the Food and Environment Protection Act 1985)

The major categories of incidents in 2008 are identified as:

- natural chemical contamination (mycotoxins, algal toxins and others) 18%;
- environmental contamination (fires, spills and leaks) 14%;
- microbiological incidents 14%; and
- on-farm incidents 11%.

2008 also saw the publication of the Agency's **incident prevention strategy**. The strategy is focused on intelligence gathering and horizon scanning to identify emerging risks to the food chain. The Agency says that collaborative work with industry will continue to identify root causes for incidents and to produce best practice guidance to further target incident prevention work.

The report draws attention to the new **incidents section on the FSA website**

"In 2008, as a result of feedback from local authorities, industry and consumers, a new incidents section was launched on our website in October. This means that information and documents relating to incident response and prevention are now all in one place and are much easier to find.

"The new incidents section is located within the 'Food Industries' section on the home page of our website. Information on how to report and respond to incidents, as well as details of our incident prevention work is included. The new incidents section has been welcomed, particularly by industry and local authority stakeholders."

Looking forward, the Agency identifies a number areas for further development:

#### **Incident prevention strategy**

- Publication of an Emerging Risks Unit (ERU) Information Handling Plan
- Development of an Information Management

System to collate and analyse intelligence from a wide range of sources

- Development of monthly ERU Bulletins and datasheets to share information on emerging risks
- Work with industry to further develop and refine the List of Common Ingredients for further risk profiling.
- Work with industry to identify key root causes for different types of incidents and to produce Best Practice Guides to prevent incidents in the future.
- Development of a forum for the food industry to share food safety information with the FSA.

#### External incident reviews

#### Review of communication routes during incidents

#### Workshops (for local authorities and industry)

#### Review of communication routes during incidents

The report notes that a review of communication routes during incidents began in 2008 to ensure communications are as effective and consistent as possible.

"These communication routes include alerts, web stories, press releases and letters. In addition, consideration is being given to the criteria that are applied when deciding on which route to use. As a result it is hoped that external stakeholders will be clearer on what actions to expect from us following an incident."

"As part of the review, in 2009 we plan to carry out a 12-week public consultation to gain the views of external stakeholders. All local authorities in England, Wales, Scotland and Northern Ireland will be consulted, as well as industry and relevant trade associations. All responses received will be considered and fed into policy-making decisions with a summary of responses published on our website within three months of the consultation closing date."

Section 4 of the report examines four 'case study' examples in greater detail:

- Deoxynivalenol (DON) in wheat
- On-farm lead poisoning incidents
- Listeria monocytogenes in pork ears and tongue roll from Lithuania
- Cross contamination of plain chocolate products with milk proteins

and a series of **Appendices** include much detailed information:

1. Why and how should I [= Food business operator] report an incident?
2. What is our [=FSA] role?
3. Who tells us about incidents?

4. How do we classify an incident?
5. How do we manage incidents?
6. What will we do with the information received?
7. What actions can we take to protect consumers' interests?
8. Statistics
9. Contact details
10. Glossary of terms

#### High Level Incidents

- dioxin contamination of meat products from the Republic of Ireland
- melamine contamination of dairy products from China
- unauthorised processing (irradiation of yeast powder)
- Listeria monocytogenes cases in the Royal Victoria Hospital, Belfast
- E.coli O157 in meat products (burgers)
- Salmonella agona outbreak
- non-compliant levels of sulphadiazine in pigs for Northern Ireland
- aflatoxins in fig paste
- E.coli O157 in raw milk
- Unauthorised GMO Bt63 in Chinese rice and rice products
- Excess levels of antibiotics in milk
- Excess levels of Paralytic Shellfish Poisoning in surf clams from the Firth of Forth
- 'Over Thirty Month' breach of BSE testing in bovine - case 1
- 'Over Thirty Month' breach of BSE testing in bovine - case 2

Four of these are considered in more detail in section 3 of the report:

- Aflatoxin contamination of figs
- Salmonella agona outbreak
- Melamine contamination of milk
- Dioxin contamination of pork

#### Primary Authority Scheme

The Primary Authority scheme came into force on 6 April and the Local Better Regulation Office has published its statutory guidance to local authorities. Copies are available from the LBRO website at <http://tinyurl.com/cg598f>.

The LBRO response to the consultation on earlier draft

guidance is available at <http://tinyurl.com/qndjyz>.

Three Primary Authority partnerships have been established, including one between Iceland Foods Limited and Flintshire County Council, which covers the following areas:

Age-restricted sales	Food standards
Consumer credit	Health and safety
Fair trading	Metrology
Food safety and hygiene	Product safety

The other partnerships involve B&Q Plc with Eastleigh Borough Council (Health and Safety); and Moto Hospitality Limited with Central Bedfordshire Council (across a range of enforcement categories). Details are at <http://tinyurl.com/rd4pjc>

### Food Standards Agency

The FSA has established a dedicated section on its website for the Primary Authority Scheme, which it has notified to enforcement authorities in England and Wales, and where all FSA guidance and other information relating to the scheme will be published - <http://tinyurl.com/qwownwz>

The Agency says that it is reviewing what additional guidance might be required by local authorities on the co-ordination of food and feed law enforcement for businesses operating in Scotland or Northern Ireland, where food and feed matters are devolved and therefore outside the scope of the scheme.

The text below is taken from the FSA website:

The Government's statutory Primary Authority scheme came into force on 6 April 2009. The scheme introduces provisions for businesses, charities or other organisations that operate across more than one site, to enter into a partnership agreement with a single authority for it to become that organisation's Primary Authority.

The existing Home Authority scheme will continue to operate across the UK, and particularly in Scotland and Northern Ireland where the Primary Authority scheme does not extend to the devolved functions of food or feed law enforcement.

The Local Better Regulation Office (LBRO) will co-ordinate the scheme, including approving and registering all Primary Authorities. Where a primary authority is registered, any other local authority (known as an 'enforcing authority' for the purposes of the scheme) proposing to take enforcement action against a food business within the scheme must contact the primary authority first. The Primary Authority can then challenge the proposed enforcement action, if it believes it to be inconsistent with advice or guidance that it has previously provided. LBRO will determine any disputes between a primary authority, or a business, and an enforcing authority. LBRO will

consult the Food Standards Agency (FSA) when determining food or feed law disputes of a technical nature.

The scheme is designed to aid better co-ordination of inspections and enforcement of businesses within the scheme, resulting in a more consistent approach to the inspection process and any subsequent advice or enforcement action. The scheme should also facilitate greater sharing of information between authorities, creating opportunities for them to target their resources more effectively, and reducing the costs that arise from inconsistent or duplicated enforcement.

The FSA is working to reduce the burden of regulation on business and make it easier for businesses to understand and comply with legislation. Our aim is to deliver increased compliance and improved consumer protection. Providing authorities with the means better to target their resources will allow them to focus more on higher risk areas.

Any enquiries about the scheme, in relation to the FSA, should be emailed to [primaryauthoritysupport@foodstandards.gsi.gov.uk](mailto:primaryauthoritysupport@foodstandards.gsi.gov.uk)

### Supporting businesses in recession and beyond

The LBRO is also seeking views from local authorities on how they can provide more help to businesses. It has produced draft advice and guidance - 'Better Local Regulation: Supporting businesses in recession and beyond' - and is seeking comments from councils, business, consumer groups, and national regulators. You can find details on the LBRO website at <http://tinyurl.com/ppdkrm>

### Life-cycle assessment of food commodities procured through a diversity of supply chains

A report has recently become available of a project completed for Defra by Cranfield University (AEA Technology) on **Comparative life-cycle assessment of food commodities procured for UK consumption through a diversity of supply chains**.

Full details are available from the Defra website at <http://tinyurl.com/qa848s>

The overall objective of the project was to produce a comparative life-cycle inventory (LCI) of the environmental burdens and resource use arising from the production of seven key food commodities for which the UK-based and imported production and supply chains are significantly different:

- **apples and lamb** (UK and New Zealand);
- **beef and poultry** (UK and Brazil);
- **potatoes** (UK and Israel),
- **strawberries and tomatoes** (UK and Spain).

The **summary Project Report** to Defra is available to download from the Defra website, <http://tinyurl.com/qhgftd>. The comment on shipping is interesting:

### Shipping

The energy requirement needed for the long-distance transport of produce, and the consequent GHG emissions, is a term which appears to have received relatively little attention. This may be because long-distance transport by ship is very energy efficient, with estimates of between 10 and 70 g CO<sub>2</sub>/t/km, compared with estimates of 20-120 and 80-250 g CO<sub>2</sub>/t/km for rail and road respectively (Marintek, 2008).

Nevertheless, the range quoted above is relatively large and over the distances from the southern hemisphere to the UK of up to 20,000 km, usage of inappropriate emission factors (EFs) could lead to significant errors in estimates of total PEU and GWP.

In addition, the produce under consideration is transported under refrigeration, whether chilled or frozen, and this adds an additional burden to the energy requirement which is not covered by the standard energy use and emission data. Estimates of this additional burden range from 10 to 50% of basic energy use. We therefore included the Norwegian Marine Technology Research Institute (Marintek) in our consortium in order to provide updated estimates of energy requirements for refrigerated transport by sea.

**All of the produce studied in this project are transported to the UK in 'reefer' ships. The basic energy requirement of such ships was estimated to be 0.24 MJ/t/km. This requirement increases to 0.27 MJ/t/km when transporting frozen produce and 0.29 MJ/t/km for the transport of chilled. Based on these data a default EF for CO<sub>2</sub> emissions of 0.0178 kg/t/km was used in the estimates of GHG emissions from shipping. Account was also taken of extra energy inputs and consequent emissions for refrigeration and also the embodied emissions in building the ship.**

### Full Report

The full report is in five sections, which can also be downloaded from the Defra website as follows:

- Final Report for Defra Project FO0103  
<http://tinyurl.com/q8o6rp>
- Appendix 2: Goal and Scope Definition and Production Flow Charts  
<http://tinyurl.com/oogh7s>
- Appendix 3 - Post Farm Gate Activity Data  
<http://tinyurl.com/oxsu9p>
- Appendix 4. Semi-quantitative comparative assessment of the impacts on wider ecosystem services.  
<http://tinyurl.com/q5ajox>
- Appendix 5. BRAZILIAN BEEF  
<http://tinyurl.com/qbzm25>

## Food Handlers: Fitness to Work - Regulatory Guidance and Best Practice Advice

The Food Standards Agency has published 'Food Handlers: Fitness to Work - Regulatory Guidance and Best Practice Advice for Food Business Operators'. This follows a stakeholder consultation carried out between November 2008 and January 2009.

Full details are available from the FSA website at <http://tinyurl.com/q69I9y>

This FSA publication updates and replaces the 1995 Department of Health guidance. For the first time, the guidance applies to all UK food business operators except primary producers (e.g. farmers and growers).

The FSA says that the guidance accompanies legislation and describes best practice, taking into account the latest evidence and science principles. It plays an important role in helping food businesses to ensure the safety of the food they produce. The aim is to help managers and staff to prevent the spread of infection by advising which illnesses and symptoms staff should report, and what managers should do in response.

"Individual businesses can decide whether they want to use this guidance or not, but it is hoped that it will prove useful in meeting legal food hygiene obligations, as well as ensuring high standards are achieved in food safety."

## Review of labelling reference intake values - EFSA Scientific Opinion

EFSA's Panel on Dietetic Products, Nutrition and Allergies has published a Scientific Opinion on labelling reference intake values.

This follows a request from the European Commission to review and provide advice on labelling the reference intakes for energy, fat, saturates (saturated fat), carbohydrate, sugars and salt that are included in the Commission's proposal for the provision of food information to the consumer - details below

The EFSA opinion notes that the proposed labelling reference intakes for energy and nutrients are to be used to enable the nutrient content of a food product (per 100 g, per 100 ml, or per portion) to be expressed as a percentage of a typical recommended daily intake (adults).

**For practical application in nutrition labelling, a single reference intake is proposed for each nutrient using rounded values for ease of calculation.**

Labelling reference intakes for total fat, saturated fat, carbohydrate, sugars and salt may be derived from science-based nutrient intake recommendations for the general population that have been established by

national and international authorities. The nutrient intake recommendations for the general population established by authorities in different EU countries are generally consistent (but not uniform).

EFSA notes that it is important to distinguish the labelling reference intakes for nutrients from dietary reference values established for population groups. Because of the nature of the relationships between intake and health, the recommended intakes for total fat, saturated fat, sugars and salt represent upper limits for individuals while for carbohydrate the recommended intake is based on a lower limit. Thus the labelling reference intakes derived from these recommendations should be interpreted in this way.

**Proposal for a Regulation of the European Parliament  
and of the Council on the provision of food  
information to consumers  
COM(2008) 40 final: 2008/0028 (COD)**

**Annex XI Reference Intakes**

**Part B - Reference Intakes for Energy and Selected  
Nutrients other than Vitamins and Minerals (Adults)**

<u>Energy or nutrient</u>	<u>Reference Intake</u>
Energy	8400 kJ (2000 kcal)
Total fat	70 g
Saturates	20 g
Carbohydrate	230 g
Sugars	90 g
Salt	6g

**Energy**

The proposed labelling reference intake for energy (8400 kJ or 2000 kcal) corresponds to the recommended energy intake for a moderately active woman. **The Panel considers that a labelling reference intake for energy based on intakes of women (as compared with a higher value based on intakes of men) gives a greater emphasis to the relative significance of a food as a source of energy, total fat, saturated fat and sugars and is more consistent with dietary advice for the general population on avoiding excess intakes of energy and these nutrients.**

**Total fat**

The proposed labelling reference intake for total fat (70 g) corresponds to 31.5 E% for a 8400 kJ (2000 kcal) diet. This value is within the range of the upper limits of intake of fat (30 - 35 E%) recommended for individuals in the general population in EU countries and by other authorities. It is at the lower end of the range of average total fat intakes in adults observed in EU countries (about 30 - 47 E%). **The Panel considers that**

**the proposed labelling reference intake is consistent with dietary advice for the general population on avoiding excess intakes of total fat.**

**Saturated fat**

The proposed labelling reference intake for saturated fat (20 g) corresponds to 9 E% for a 8400 kJ (2000 kcal) diet. This value is consistent with the upper limits of intake of saturated fat (8 - 10 E%) recommended for individuals in the general population in EU countries and by other authorities. It is at the lower end of the range of average saturated fat intakes in adults in EU countries (about 9 - 18 E%). **The Panel considers that the proposed labelling reference intake is consistent with dietary advice for the general population on avoiding excess intakes of saturated fat.**

**Carbohydrate**

The proposed labelling reference intake for carbohydrate (230 g) corresponds to 46 E% for a 8400 kJ (2000 kcal) diet. This is less than the lower limits of intake of carbohydrate (generally 50 - 55 E%) recommended for individuals in the general population in EU countries and by other authorities.

**The Panel proposes that the labelling reference intake for carbohydrate be 260 g (corresponding to 52 E% for a 8400kJ or 2000 kcal diet) which is within the range of lower limits of recommended intakes for individuals in the general population and close to the upper end of the range of average carbohydrate intakes in adults in EU countries. The Panel considers that a labelling reference intake of 260 g is consistent with dietary advice for the general population on ensuring adequate intake of carbohydrate.**

**Sugars**

The proposed labelling reference intake for (total) sugars (90 g) corresponds to 18 E% for a 8400 kJ (2000 kcal) diet. The proposed value is at the lower end of the range of average intakes of total sugars in adults in EU countries (about 17 - 26 E%). Total sugars include both indigenous (sugars naturally present in foods such as fruit, vegetables, cereals and lactose in milk products) and added sugars. There are generally no recommended intakes for total sugars. Some authorities have recommended upper limits of intake of added sugars (generally 10 E%) for individuals in the general population, while others recommend that intake of added sugars, or certain foods containing added sugars, be limited but do not recommend an upper limit.

It has been estimated that indigenous sugars provided by recommended daily intakes of fruits, vegetables, cereals and dairy products would amount to about 45 g in adults. Assuming that the remaining 45 g of sugars (up to the 90 g proposed for the labelling reference intake) are added sugars, this would correspond to 9 E% for a 8400 kJ or 2000 kcal diet.

**Thus the Panel considers that the proposed labelling reference intake of 90 g for (total) sugars is**

compatible with a recommended upper limit of intake of added sugars of 10 E% for individuals in the general population as proposed by some authorities.

#### Salt

The proposed labelling reference intake for salt is 6 g. This value is within the range of the upper limits of intakes of salt (generally 5-8 g) recommended in EU countries and by other authorities. It is less than the lower end of the range of average salt intakes in adults in EU countries (about 8-11 g). **The Panel considers that the proposed labelling reference intake is consistent with dietary advice for the general population on avoiding excess intakes of salt.**

### Reducing Energy Use in Food Refrigeration

Refrigeration systems use up to 15 percent of the total energy consumed worldwide. In the UK, there are 1500 to 2000 food and drink manufacturing sites that are major users of refrigeration, accounting for over 4,500 GWh of electrical energy consumption. Approximately half the total electricity energy in this sector is used in refrigeration processes. The rest of the cold chain, storage, transport, retail and catering are even bigger users. There is, therefore, a substantial economic and environmental need to significantly improve food refrigeration efficiency.

**To help meet this need Defra has funded a 3 year £1m plus project 'Fostering the Development of Technologies and Practices to Reduce the Energy Inputs into the Refrigeration of Food'. Its objective is to reduce refrigeration energy without compromising food safety and quality. In the project the University of Bristol is partnered by Brunel, London South Bank and Sunderland Universities.**

The research programme has concentrated on three topics:

- mapping of energy use in different parts of the chain
- identifying the most promising technologies, systems and business practices
- undertaking feasibility studies on the most promising technologies

**The project partners have now launched a new website focusing on "Reducing energy use in food refrigeration", available at <http://tinyurl.com/pb2uuz>**

On the site you will find a wealth of information on refrigeration technologies; the 'Top 10' energy users; potential for energy saving throughout the cold chain; and much more.

The website is still under development and more content will be added over the coming weeks.

### Potential risks arising from nanotechnologies

The European Food Safety Authority (EFSA) has published its scientific opinion on nanoscience and nanotechnologies in relation to food and feed safety. EFSA's Scientific Committee has concluded that established international approaches to risk assessment can also be applied to engineered nano-materials (ENM). The Committee also concluded that a case-by-case approach would be necessary and that, in practice, current data limitations and a lack of validated test methodologies could make risk assessment of specific nano-products very difficult and subject to a high degree of uncertainty.

This opinion focuses on the use of nanotechnologies, particularly ENMs, in the food and feed chain. It elaborates on approaches and methodologies available for risk assessment of these very small particles but does not address any specific applications of particular ENMs. The European Commission asked for this opinion because consideration needs to be given as to whether existing risk assessment approaches could be appropriately applied to this new technology.

The EFSA Committee recommends that additional research and investigation is needed to address the many current uncertainties and data limitations. Specific recommendations include the following:

- investigating the interaction and stability of ENMs in food and feed, in the gastro-intestinal tract and in biological tissues
- developing and validating routine methods to detect, characterise and quantify ENMs in food contact materials, food and feed
- developing, improving and validating test methodologies to assess toxicity of ENMs (including reliability and relevance of test methods)

Prof Vittorio Silano, chair of EFSA's Scientific Committee, said:

"The Scientific Committee has concluded that in principle it is possible to undertake risk assessments in this emerging scientific area by making use of available international approaches. However, given current data gaps and limitations in a number of cases, it may be very difficult to provide fully satisfactory conclusions.

"This issue will remain a priority for EFSA's Scientific Committee. We are establishing a working group of experts to be kept informed of any emerging scientific and other data that will help us deliver the best possible scientific opinions based on the most up-to-date evidence available. EFSA will take a cautious case-by-case approach and looks forward to further data and research becoming available to help inform future scientific opinions."

EFSA's Scientific Committee has a multi-disciplinary character and has been assisted by a working group of

scientists with relevant expertise. Feedback from a public consultation held during 2008 was taken into account before the final opinion was adopted. Full details are available from the EFSA website at <http://tinyurl.com/c5gymq>

### Institute of Food Science & Technology

The Institute of Food Science & Technology has published a new Advisory Statement on **Listeriosis and Vulnerable groups** (June 2009). This is described as an IFST contribution to National Food Safety Week (15-21 June 2009). The Summary reads as follows:

"Listeriosis is a foodborne disease caused by eating food contaminated with *Listeria monocytogenes*. This organism causes serious illness in vulnerable groups such as the elderly, pregnant women, individuals with weakened immune systems and the newborn. *Listeria monocytogenes* is well-suited to growth and survival in foods, even if these are stored in the refrigerator, and is a major concern in ready-to-eat foods. *Listeria* are common in the environment and can be introduced into food by contact with contaminated surfaces or kitchen utensils. Here we offer pointers for minimising the risk to vulnerable consumer groups in relation to ready-to-eat foods."

The full statement can be downloaded from the IFST website ([www.ifst.org/](http://www.ifst.org/)) or directly as <http://tinyurl.com/re4d5l>

#### Food Allergy

Other recent additions to the extensive collection of Statements from IFST include a new Information Statement (dated February 2009) on Food Allergy, which cancels and replaces any previous versions. The full text may be downloaded directly as <http://tinyurl.com/g36kf> (or from the IFST website)

In the Summary to the Information Statement, IFST says

"The problem of food allergens is part of a wider problem, that of all kinds of adverse reactions to foods, which can also result from microbial and chemical food poisoning, psychological aversions and specific non-allergenic responses.

"Food allergy is now recognised as an important food safety issue. Dealing with at least the major serious food allergens is an essential part of Good Manufacturing Practice. The greatest care must be taken by food manufacturers

- to formulate foods so as to avoid, wherever possible, inclusion of unnecessary major allergens as ingredients;
- to organise raw material supplies, production, production schedules and cleaning procedures so as to prevent cross-contact of products by "foreign"

allergens;

- to train all personnel in an understanding of necessary measures and the reasons for them;
- to comply with the relevant labelling legislation providing appropriate warning, to potential purchasers, of the presence of a major allergen in a product;
- to have in place an appropriate system for recall of any product found to contain a major allergen not indicated on the label.

"The purpose of this statement is to describe the nature and cause of food allergies, to outline recent changes in legislation that aim to help allergic consumers to live with their condition and to emphasise the measures that manufacturers and caterers should take to minimise the problems."

### Marketing Standards for Poultrymeat

The European Commission issued a proposal in May 2008 to amend the marketing standards for poultrymeat. The marketing standards are included in Regulation 1234/2007 (the Single CMO Regulation), which replaced an earlier specific Regulation (Council Regulation (EEC) No 1906/90). Detailed rules for poultrymeat marketing are specified in Commission Regulation (EC) No 543/2008.

The Commission proposal was in part intended to accommodate the use of surface decontamination agents, which the Commission wished to see authorised for use in the EU. This required an amendment to the definition of poultry meat, since the existing definition has an exclusive reference to cold treatment. However the Commission failed to obtain support for the authorisation of these substances, from either Parliament or Council and this aspect of the proposal has been dropped.

The Commission proposal also included other changes, which it considered necessary in the light of technological developments and to reflect changing consumer habits - particularly the increasing consumption of poultrymeat in the form of meat preparations and products.

Key elements in the Commission proposal would:

- (i) include salted chicken within the COM system (poultrymeat in brine within CN code 0210 99 39)
- (ii) extend the scope of the marketing standards to include poultrymeat preparations and poultrymeat products
- (iii) amend the definitions included in the standards with a new definition for 'fresh poultrymeat preparation'.

**The new definition would preclude the use of**

previously frozen poultrymeat in a product being sold as a fresh (=chilled) preparation, or the freezing of poultrymeat preparations which would later be sold defrosted as chilled.

The UK has argued strongly that the issue of previously frozen product is properly addressed by mandatory labelling but has had little support from other member states. The latest text from the Commission (document reference 8570/09) follows a Presidency compromise route, and continues to outlaw the use of previously frozen product in a 'fresh poultrymeat preparation'

"The Commission concluded that there was a broad Qualified Majority for the amended compromise text, only the UK was against."

The latest text has now been notified by the EU to the WTO under the Technical Barriers to Trade procedure. A copy of the notification and of the text can be downloaded from the Europa website at <http://tinyurl.com/mk97h9>

WTO member states have a 60-day period in which they can make observations to the EU, which the EU must then take account of. Resolution of issues under the TBT process seems to be relatively informal. The official line (from the EU) is as follows:

"Technical regulations and conformity assessment procedures must be notified to the WTO Secretariat at the proposal stage, namely at an early enough stage, when amendments can still be made and when comments can still be taken into account. The aim of the notification procedure would not actually be achieved if the communication occurred after the adoption of the text as it would no longer be possible to take account of the comments of other Members to the Agreement."

The sixty-day period ends on 21 June. The Commission then expects to be in a position for formal approval of the proposal, or possibly for a compromise text to be circulated. A meeting of the Agriculture and Fisheries Council is (conveniently) scheduled for 22-23 June

Defra has suggested that it is likely that the proposal will go to the June meeting of the Agriculture and Fisheries Council, although it is not clear whether this would be on the Council Agenda as an 'A' point (for agreement without discussion).

[For more information on the TBT procedure, visit <http://ec.europa.eu/enterprise/tbt/>]

The Commission proposal is in the form of a Council Regulation, which does not require full participation by the European Parliament. However there is a requirement for the Parliament to be consulted and this process has now been completed. The lead Parliamentary Committee was that for Agriculture and Rural Development (AGRI), with the Committee on the Environment, Public Health and Food Safety (ENVI)

having a secondary role.

The final Parliamentary opinion was adopted in the Plenary Session on 5 May. This was after the latest Commission text was determined and had already been notified to the WTO. The text of the legislative resolution adopted by the Parliament can be found at <http://tinyurl.com/lpvrm>, but is unlikely to result in any significant further amendment to the commission text.

Comparing the latest ('final') text (8570/09) with the Commission's original proposal, the following changes are to be noted:

- **New recital:** "The marketing standards were developed to contribute to an improvement in the quality of poultrymeat and information relating thereto and, consequently, facilitate the sale of such meat. In particular, a definition of fresh poultrymeat more precise than in the legislation on food safety was introduced, with effect as from 1 July 1991, by Council Regulation (EEC) No 1906/90 of 26 June 1990 on certain marketing standards for poultry. Experience shows that there is a need to confirm the strict principle behind this definition and to make it even more explicit."

- **New recital:** "Experience shows that in certain cases fresh poultrymeat preparations can easily substitute for fresh poultrymeat given the fact that both must keep the characteristics of raw meat when they are presented for sale to the consumer. In order to avoid any distortion of competition between fresh poultrymeat and fresh poultrymeat preparations, it is appropriate to extend the principle behind the definition of fresh poultrymeat to fresh poultrymeat preparations."

- The earlier text claiming that 'fresh' (= not previously frozen or quick frozen) is a guarantee of quality has been removed

The Federation had serious concerns with the inaccurate and totally unjustified picture that this would portray of frozen product. We are pleased to see its removal

- Definition for 'poultrymeat' - no amendment is now included and the existing definition in 1234/2007 continues (the previous amendment was only necessary to accommodate the use of surface decontamination agents)

['Poultrymeat' means poultrymeat suitable for human consumption, which has not undergone any treatment other than cold treatment]

- **A clear definition for 'poultrymeat preparation' is now included.** This picks up the wording from hygiene regulation 853/2004 (specific hygiene rules for food of animal origin) but restates the definition in terms of poultrymeat as defined in the poultrymeat marketing standards.

['Poultrymeat preparation' means poultrymeat

within the meaning of this Regulation, including poultrymeat that has been reduced to fragments, which has had foodstuffs, seasonings or additives added to it or which has undergone processes insufficient to modify the internal muscle fibre structure of the meat and thus to eliminate the characteristics of raw meat.]

- **The definition for 'fresh poultrymeat preparation' now includes an additional allowance for member states to allow slightly different temperature requirements to be applied to facilitate handling and cutting during production**

[ 'Fresh poultrymeat preparation' means a poultrymeat preparation for which 'fresh poultrymeat' within the meaning of this Regulation has been used. However, Member States may lay down slightly different temperature requirements to be applied for the minimum length of time necessary and only to the extent necessary to facilitate the handling and cutting performed in the factory during the production of fresh poultrymeat preparations.]

**The definition for 'poultrymeat product'** is unchanged from the Commission's original proposal, with a cross reference to the hygiene regulations

[ 'Poultrymeat product' means a meat product as defined in point 7.1 of Annex I to Regulation (EC) No 853/2004 for which 'poultrymeat' within the meaning of this Regulation has been used.]

- **There is now a transition period to 1 April 2010**

Although poultrymeat products are to be brought within the scope of the marketing standards, and a clear definition is included for a poultrymeat product, there are no specific requirements or restrictions being introduced for poultrymeat products

The original text was perhaps unclear whether poultrymeat products were to be subject to control, but there is now no ambiguity. Restrictions on the use of previously frozen poultrymeat will only apply to poultrymeat preparations and not to poultrymeat products

The Commission proposal continues to extend marketing conditions as follows:

Poultrymeat and poultrymeat preparations shall be marketed in one of the following conditions:

- fresh,
- frozen, or
- quick-frozen.

The existing regulations 1234/2007 applies these conditions only to 'poultrymeat'

**This aspect of the proposal still needs further clarification (or amendment) to avoid conflict with the hygiene regulations. The Commission's proposal**

**allows 'poultrymeat preparations' to be marketed 'frozen' - presumably this means at -12°C in line with the definition for 'frozen poultrymeat'. However, hygiene regulation 853/2004 requires all meat preparations (regardless of species) to be frozen to -18°C**

(Regulation 853/2004 - Annex III (Specific Requirements), Section V (Minced Meat, Meat Preparations and Mechanically Separated Meat), Chapter III (Hygiene During and After Production)

### **Sustainable food: a guide for hospitals**

The Department of Health has recently published '**Sustainable food: a guide for hospitals**'. This can be downloaded from the DH website at <http://tinyurl.com/r43l7a>

According to the Executive summary 'This guide describes why the sustainability of food is important, provides guidance on what hospitals can do to improve the sustainability of the food they provide to patients, staff and visitors, and advises on how hospitals can assure the sustainability of their food service provision.'

The guidance has however been described as flawed, demonstrating a lack of consistency with overall Government policy, and confusingly promoting 'local' and 'seasonal' as better for the environment.

"The report ignores the Government's own definition of 'locally in season', which is: 'Food that is outdoor grown or produced during the natural growing/production period for the country or region where it is produced. It need not necessarily be consumed locally to where it is grown. This applies to seasonal food produced both in the UK and overseas'.

"Research by Defra has shown that some imported products are grown in less greenhouse gas intensive ways than the same products in the UK, with savings from greater efficiency outweighing the negative impacts of additional transport."

[ 'FPC attacks hospital guidance' on FoodEast 28 May]

### **Possible Emergency Measures on Crustaceans Imported from India**

The Food Standards Agency issued a notification that it is likely that EU emergency measures will be imposed on imports of crustaceans into the Community from India.

"This is because the last European Commission Food and Veterinary Office inspection visit to India identified shortcomings in the residue control system in live animals and animal products.

"As a result the last meeting of the EU Standing Committee on the Food Chain and Animal Health

(SCoFCAH) discussed a draft Commission Decision on emergency measures applicable to crustaceans imported from India intended for human consumption or for animal feed.

"Under the draft measure, consignments of crustaceans from India will only be able to enter the Community if they are accompanied by the results of an analytical test carried out at origin to verify that they do not present a danger to human health. The tests must be carried out with a view to detecting the presence of metabolites of nitrofurans to conform with Commission Decision 2002/657/EC. The requirement is likely to only apply to farmed crustaceans.

"Any consignments which are not accompanied by the results of an analytical test may enter the Community providing the BIP ensures that each consignment of crustaceans from India undergoes all appropriate checks, and detains each consignment until laboratory tests show that the substance indicated is not present at concentrations in excess of the MRPL as defined in Commission Decision 2003/181/EC."

Controls will take effect once a Commission Decision is published in the Official Journal

Fishery Information Note FIN/04/2009 can be downloaded as <http://tinyurl.com/nqeu2l>

## BIP Manual

A new and updated version of the BIP manual has recently been published. Version 13 is available to download from <http://tinyurl.com/njlcds>

The manual provides guidance on the implementation of legislation concerning checks on products of animal origin coming from third countries. It covers both EU and national rules applicable at Border Inspection Posts (BIPs).

The main changes to the manual are identified as:

- Equivalence agreement with Switzerland
- Guidance on mixed consignments and CN Codes
- Deletions from health certificates
- Consignments split before customs clearance
- Customs guidance on T5 procedures
- Notification of channelled consignments where confirmation of receipt has not been received
- Documentation for rejected consignments
- Article 21 of OFFC
- Removal of the requirement to send Reg 21 Notices
- Consignments containing residues
- Update on products subject to vet checks, including blood products

## F Gas Regulations

The European commission (DG Environment) has published a series of guidance documents on the F gas regulations.

Readers will be interested in the Commission's publications covering 'Stationary refrigeration, air-conditioning and heat pump equipment' - there is a 36-page brochure for operators, and a short leaflet for technical personnel.

These may be downloaded from the DG Environment website at <http://tinyurl.com/l2jdxr>

### Councils' role under EU F-gas and ODS regulations

LACORS has published information clarifying the role of Councils role under the EU fluorinated greenhouse gases and ozone-depleting substances regulations.

"GB Councils have a regulatory role - along with the Environment Agency and SEPA - under the new GB fluorinated greenhouse gases (f-gases) and ozone-depleting substances (ODS) regulations, which implement EU regulations. Northern Ireland will introduce separate legislation. Councils' regulatory role is likely to be focussed on businesses responsible for significant f-gas emissions, including large supermarkets and large food and drink manufacturers. Defra has funded a support unit called "F-Gas Support" to help promote businesses' compliance with the f-gas and ODS regulations. Although the EC Regulations apply UK-wide and there are GB regulations that set out offences, penalties and regulators' powers, F-Gas Support is currently only funded by Defra and the support it offers only extends to England. Defra has agreed with LACORS that regulators must be fully supported and adequately funded if English regulators are to properly address its duty to tackle climate change through these regulations, although funding for 09-10 has yet to be finalised and signed off."

The full statement is available from the LACORS website at <http://tinyurl.com/mm547o>

## Freezer Burn in Frozen Foods

Freezer burn is a common problem that significantly affects the colour, texture and flavour of frozen foods. Readers will be interested in a recent article in the Journal of Food Science Education which explains what freezer burn is, how to prevent it and how self-defrosting freezers and individually quick frozen products contribute to the problem.

To access the article 'How Does the Freezer Burn our Food?' visit <http://tinyurl.com/mvs7n5>

The Abstract for the Journal article reads as follows:

Freezer burn is a common problem that significantly affects the color, texture, and flavor of frozen foods. Food science students should be able to clearly explain the causes and consequences of freezer burn. However, it is difficult to find a modern, detailed, accurate, yet concise, explanation of the mechanism and factors influencing the rate of freezer burn, suitable for classroom use. Thus, the purpose of this article is to provide students and instructors alike with such an explanation, replete with visual explanations, including 2 short animations. The animations, in QuickTime format, are available as supporting information and can be downloaded for free educational use.

The Journal of Food Science Education is a publication from the American Institute of Food Technologists.

"Founded in 1939, the Institute of Food Technologists is a nonprofit scientific society with more than 20,000 individual members working in food science, food technology, and related professions in industry, academia, and government. IFT serves as a conduit for multidisciplinary science thought leadership, championing the use of sound science through knowledge sharing, education, and advocacy. For more information: [www.IFT.org](http://www.IFT.org)"

## Nutrition and Health Claims Regulation

The Food Standards Agency continues to provide useful updates on progress within the Commission Working Group on implementing the Nutrition and Health Claims Regulation (1924/2006)

### Nutrient Profiles

The Commission has explained that this issue has attracted political interest from within the Commission at a high level which has prompted a reappraisal as to how to meet the statutory obligation to establish nutrient profiles, while taking into account the role of certain foods in the diet for which reformulation is not possible or which are eaten in smaller quantities and contribute little to the diet.

The result of this is a proposal to **increase the list of exempt food categories** (to include meat and edible meat offal, fish and crustaceans, molluscs, other aquatic invertebrates, milk, eggs, bread with a minimum of 3g/100g fibre content, cough drops, chewing gum and dextrose tablets, honey, table top sweeteners and salt containing iodine/fluorine).

In addition to these exemptions, the Commission said it was considering new sub-categories for soya products and for fine bakery, and revised threshold levels.

The revised text is still undergoing inter-Commission consultation and no indication has been given of when this is likely to be ready. It will still be some time before the final profiles are adopted as they must

undergo scrutiny by the European Parliament.

### Article 13 (Health) Claims

The Commission said that it is clear that the 31 January 2010 deadline for adoption of the permitted list of health claims will not be met, and it is currently considering the best approach for handling this, taking into account transition periods.

In response to concerns about competitive issues arising if some claims are authorised before others, the Commission agreed that equality of treatment was important and it would consider this for the list of authorised claims. However, it did not foresee any legal implications of the EFSA opinions being issued in phases as this is only one step of the authorisation process.

### Nutrition Claims

On progress amending the nutrition claims Annex, the Commission said there would not be time to consider all 41 amendments proposed by the food industry European umbrella organisation before the January 2010 deadline and prioritisation was required.

Those claims on the market before the Regulation came into force should be dealt with first.

The Commission is waiting for direction from Commissioner Vassilou before progressing with amendments to the Annex.

## FSA Salt Targets for 2012

The Food Standards Agency has published revised, voluntary salt reduction targets for industry to meet by 2012.

The Agency says that more challenging targets for 2012 have been set for 80 categories of foods, to ensure the momentum in reducing salt levels is maintained by food retailers and manufacturers.

"The revised targets also reflect the Agency's long-term commitment to reducing the daily average population intake of salt to 6g a day.

"The targets have been set for foods that make the greatest contribution of salt to our diet, such as bread, meat products and cereals, as well as convenience foods such as pizza, ready meals and savoury snacks.

"When the 2010 targets were first set in 2006, the Agency committed to reviewing them in 2008. During this review the Agency welcomed the considerable reductions that have been made by many manufacturers and retailers. The revised targets reflect this progress. However, there remains significant variation in salt levels that exist between different products and there is clearly scope for some parts of industry to do more.

"The Agency intends to monitor closely both the progress towards meeting the targets, and the achievability of the 2012 targets. Continued, regular dialogue and close partnership working with industry will help to identify any difficulties encountered as well as provide opportunities to report back on progress."

A limited number of 2010 targets have also been revised, which the Agency says are for foods where there has already been considerable progress by industry in meeting them, or where those targets have already been met.

Voluntary salt reduction targets were first published in March 2006 for 85 categories of food. The Agency made a commitment to review the targets in 2008 to formally assess progress and to establish what further reductions were necessary to maintain progress towards its 6g daily intake target.

A series of sector-specific meetings covering the salt targets categories were held in January and February 2008, at which industry was asked to report on progress towards achieving the targets, any significant challenges experienced and what further levels of salt reduction might be achieved. The Agency says that outcomes were used to help it develop proposals for revised targets.

A public consultation on proposals to revise the targets for a limited number of food categories for 2010, and new targets for most foods for 2012, were published in July 2008. The number of categories reduced from 85 to 80 when some were redefined or joined together.

Full details of the revised targets can be found on the FSA website at <http://tinyurl.com/qs39hl>, together with an Impact Assessment

#### **Impact assessment**

The Agency says that one of the key issues raised in industry responses to the consultation was the potential costs of reformulation activities.

"Therefore, to further inform the final impact assessment (IA), the Agency held meetings with a number of manufacturers and retailers. This enabled us to better reflect within the IA the wide range of drivers, as well as the costs associated with reformulation work and the impact of salt targets. The new information obtained, including information for the different case studies, is included in Annexe 1 of the IA."

#### **Reviewing and monitoring progress**

The 2008 consultation on the revised targets also included proposals on how information would be gathered to inform a regular review of progress towards the 6g target.

**The Agency says that it recognises that the targets are extremely ambitious and challenging to industry, and plans to next review progress towards the end of**

**2010, and then every two years.**

"Work up to and including the 2010 review will focus on ensuring a continuing trend of gradual salt reductions in foods and progress across the whole industry in a way that maintains consumer acceptability as people's palates adjust to less salty foods.

"Each review will be informed by a variety of information including data on levels of salt in food as well as through ongoing dialogue with industry to identify progress made and continuing difficulties with salt reduction. Data on levels of salt in food will come from a combination of commercial label data, which the Agency will purchase regularly, and information collected through a minimal industry self-reporting framework.

"As well as collecting data on salt levels in individual products, progress will also be monitored through the publicly available salt commitments table. Information will be collected annually from industry organisations that will have the opportunity to highlight reductions made, future plans on salt reduction and areas of difficulty. The tables will be published jointly on the FSA and Department of Health websites. Work will start shortly on refreshing formats used previously for both the self-reporting framework and the salt commitments table.

"Monitoring of salt intakes in the UK will continue and will be carried out through urinary sodium surveys undertaken as part of the new rolling programme of the National Diet and Nutrition Survey, which began fieldwork in April 2008. The method used for collecting and analysing the samples will be comparable with previous surveys. The first set of results will be available at the same time as the results of the next review of industry progress."

### **The Business Protection from Misleading Marketing Regulations**

The Office of Fair Trading has issued a guide for businesses on business-to-business promotions and comparative advertisements. The guidance provides an overview of the Business Protection from Misleading Marketing Regulations 2008 (BPRs).

The BPRs came into force on 26 May 2008 alongside the Consumer Protection from Unfair Trading Regulations 2008 (CPRs), implementing the requirements of European Directive 2006/114/EC concerning misleading and comparative advertising.

The BPRs replace the business-to-business element of the Control of Misleading Advertisements Regulations 1998. They prohibit businesses from advertising products in a way that misleads traders and set out conditions under which comparative advertising, to both consumers and business, is permitted. The BPRs also

require code owners (namely traders and bodies responsible for codes of conduct or monitoring compliance with such codes) not to promote misleading advertising and comparative advertising which is not permitted.

'Business to business promotions and comparative advertisements - A quick guide to the Business Protection from Misleading Marketing Regulations 2008' is available from the OFT website at <http://tinyurl.com/qwa4dv>, or download directly as <http://tinyurl.com/cn8jbw>

Also available is a short Advisory Note and a flowchart to help businesses check whether their advertisements comply with the BPRs, available from the OFT website address above.

Copies of the Business Protection from Misleading Marketing Regulations 2008 (SI 2008 No 1276) can be found on the OPSI website (together with the associated Explanatory Memorandum) at [www.opsi.gov.uk/si/si200812](http://www.opsi.gov.uk/si/si200812)

Note that guidance on the Consumer Protection from Unfair Trading Regulations 2008 is also available from the OFT website at <http://tinyurl.com/4qytfh>

### Form and Content of New Climate Change Agreements

The new Department of Energy and Climate Change (DECC) has been consulting stakeholders on the form and content of new climate change agreements. Details can be downloaded from the DECC website as <http://tinyurl.com/couylz>

Climate Change Agreements were introduced in 2001 alongside the Climate Change Levy, in response to the Marshall Report on "Economic Instruments and the Business Use of Energy". The Climate Change Levy is a tax on certain forms of energy supplied to the non-domestic sector, intended to encourage the efficient use of energy, and to help reduce energy demand and reduce emissions of greenhouse gases.

Recognising that such a levy (tax) could affect the competitiveness of energy intensive sectors of industry, Lord Marshall recommended a system of reduced rates targeting relief at plant level. Consequently Climate Change Agreements were introduced at the same time as the Levy.

**Under Climate Change Agreements, eligible energy intensive industry benefit from an 80% reduction in the Climate Change Levy, if they meet energy efficiency targets.**

The current Climate Change Agreements expire in March 2013, although the scheme is the subject of a State aid approval by the European Commission that was granted in 2001 for a period of just 10 years, until 31

March 2011 (the maximum period for which approval could be given). The Government will be seeking an extension to that approval to 31 March 2013 (the end of the current scheme) in due course.

**The Government announced in the Pre Budget Report in 2007 that "the scheme will continue until 2017, subject to State aid approval, and [it] will discuss with business the most effective way of taking this forward".** A further State aid notification covering the new scheme will be submitted once the form and content of the new agreements have been determined.

The Government says that it has reviewed the current Agreements with a view to simplifying them for the benefit of business and government and to achieve greater coherence with other relevant climate change policy. It makes a number of proposals for changes to the form and content of existing Climate Change Agreements, on which the views of interested parties are sought. A number of questions are also raised about other possible changes to the Agreements on which the Government may decide to make proposals, subject to the nature of the responses it receives.

The DECC consultation paper notes that many of the individual issues under consideration are closely inter-related and decisions taken on one issue will have implications on what can be done on another.

"Given the extent of these links, it is difficult to envisage the overall impact of the different options unless presented together as a package. For illustrative purposes, this Section presents two possible scenarios, each of which take account of DECC's preferred options where these exist. In both cases, the aim has been to create a coherent package that delivers essential environmental benefits, while recognising the needs of industry. We have sought to achieve maximum simplification and cost savings, and coherence with other climate change policies, for the benefit of industry and government."

"It is clear that potentially the most important and difficult issue to resolve is whether or not sectors and target units should continue to be able to choose between absolute and relative targets, or whether all targets should be set in absolute terms. Consequently the two scenarios are based on these two alternatives. Scenario A assumes that targets are set only on an absolute basis. Scenario B assumes that targets will continue to be set on absolute or relative basis."

It should be noted that it is not proposed to make any changes to the eligibility criteria for Climate Change Agreements, although joining arrangements for the new scheme will vary depending on status in respect of the existing scheme.

- Target units that have agreements under the current scheme may only qualify for Levy reduction for the period 1 April 2011 to 31 March 2013 by

meeting their targets for the fifth target period according to the rules of the scheme. Eligibility for future Levy reduction will be subject to joining and meeting the rules of the new scheme.

- Target units that have previously held agreements under the current scheme but no longer do so may join the new scheme, if eligible, and, in most circumstances, qualify for Levy reduction subsequent to meeting targets in the first target period of the new scheme.
- Target units that have not previously held Climate Change Agreements and join the new scheme will benefit from Levy reduction from the date of joining, or from 1 April 2011, whichever is the later.

The Government has decided to close the existing scheme to new entrants as at 30 September 2009. Any new applications under the existing scheme must be made by 1 July in order to allow time for processing and approval by the end of September 2009.

#### **Draft Order to Implement the Carbon Reduction Commitment**

DECC has also consulted stakeholders on a Draft Order to Implement the Carbon Reduction Commitment (CRC). Full details are available from the DECC website at <http://tinyurl.com/phe2td>

This is the third consultation on the development of the CRC scheme, which is scheduled to come into effect in April 2010.

**CRC is a cap and trade scheme which seeks to reduce carbon dioxide emissions from large non-energy intensive organisations in both the public and the private sector, approximately 5,000**

**organisations in total.**

Also available alongside the consultation papers is a **draft User Guide**, which provides potential CRC participants with guidance on how to prepare for the scheme and contains information on actions that they need to undertake when participating.

**Qualification for the scheme is based solely on half hourly metered electricity usage. An organisation will qualify as a participant if during the 2008 calendar year:**

- it had at least one half hourly electricity meter (HHM) settled on the half hourly market across the whole organisation
- the organisation had a total half hourly electricity consumption of at least 6,000 megawatt-hours (MWh)

All organisations that meet the first criterion but consume less than 6,000 MWh of half hourly electricity will not qualify as a participant. They will however still need to submit information to the administrator at the beginning of the scheme.

To minimise administrative overlap, the CRC scheme will cover emissions outside of Climate Change Agreements (CCAs) and outside the direct emissions already covered by the EU Emissions Trading System (EU ETS). In addition, any part of an organisation with more than 25% of their energy use emissions covered by a CCA will be exempt from the scheme.

Further details on the CRC scheme, including the User Guide, are available on the Defra website at <http://tinyurl.com/3nb69c>.

**Note:** TinyURLs™ are used in this newsletter to replace some long web addresses.

For more about TinyURL™ ('Making long URLs usable'), visit <http://tinyurl.com/>. TinyURL was created as a free service to make posting long URLs easier, and is a trademark of Gilby Productions

**Members of the British Frozen Food Federation requiring further information about any item in this newsletter should contact Ian Farley, Technical and Legislative Co-ordinator**

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