

# British Frozen Food Federation



## T&L update 56

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## Government policy – the new approach

The new UK coalition government was quick to launch a five-year policy programme, detailed in a 36-page document, available from <http://tinyurl.com/2d984jh>

The Programme document set out agreed priorities for the Coalition Government but many detailed areas of policy remained to be clarified. The Programme initially identified that the new government will:

- cut red tape by introducing a **'one-in, one-out'** rule whereby no new regulation is brought in without other regulation being cut by a greater amount.
- end the culture of 'tick-box' regulation, and instead **target inspections on high-risk organisations** through co-regulation and improving professional standards.
- impose **'sunset clauses'** on regulations and regulators to ensure that the need for each regulation is regularly reviewed.
- end the so-called **'gold-plating'** of EU rules, so that British businesses are not disadvantaged relative to their European competitors.
- introduce, as a first step, an **Ombudsman in the Office of Fair Trading** who can proactively enforce the Grocery Supply Code of Practice and curb abuses of power, which undermine our farmers and act against the long-term interest of consumers.
- introduce **honesty in food labelling** so that consumers can be confident about where their food comes from and its environmental impact.
- reduce the number and cost of **quangos**.
- introduce measures to promote a huge increase in energy from waste through **anaerobic digestion**.
- work towards a **'zero waste' economy**, encourage councils to pay people to recycle, and work to reduce littering.
- promote high standards of **farm animal welfare**.
- ensure that **food procured by government departments**, and eventually the whole public sector, meets British standards of production wherever this can be achieved without increasing overall cost.
- regulate lobbying through introducing a **statutory register of lobbyists** and ensuring greater transparency.
- work towards the introduction of a new system of **HGV road user charging** to ensure a fairer arrangement for UK hauliers.

More detailed policy is beginning to take shape, as decisions are made, which reveals the approach that will be followed by the new Government.

### Action plan to end excessive regulation that is stifling business growth

The Action plan announced by Business Secretary Vince Cable

- creates a new **Cabinet "Star Chamber"** that will lead the Government's drive to reduce regulation This Reducing Regulation Committee will be chaired by the Business Secretary and will enforce a new approach to new laws and regulations, ensuring that their costs are being properly addressed across the entire British economy. The first action for the new Cabinet committee will be an immediate review of all regulation in the pipeline for implementation which has been inherited from the previous Government.
- establishes a new **"challenge group"** to come up with innovative approaches to achieving social and environmental goals in a non-regulatory way. The group will foster an innovative culture in Whitehall to ensure non-regulatory options are explored first. The long-term aim is to change the entrenched pro-regulation mindset in central government.
- introduces a new approach that will control and reduce the **burden of regulation**. A "one-in, one-out" approach, designed to change the culture of government, would make sure that new regulatory burdens on business are only brought in when reductions can be made to existing regulation.

### Review of waste policy announced

Defra minister Caroline Spelman quickly announced that the Government would undertake a full review of **waste policy in England**, which will include;

- the effect of waste policies on local communities and individual households, and how local authorities can best work with people to make the best decisions;
- maximising the contribution of the waste and recycling industries to the UK economically and environmentally;
- how to work towards the "zero waste economy", and drastically reduce the amount of waste created and valuable resources sent to landfill, looking at the entire process from source to end of life; and
- new approaches to dealing with commercial waste and promoting 'responsibility deals', reducing the amount of waste generated by production and retail.

The detail of this review process is now known – more details below

### Review of health and safety laws

David Cameron announced the appointment of the Rt Hon Lord Young of Graffham as Adviser to the Prime

Minister on health and safety law and practice. Lord Young will undertake a Whitehall-wide review of the operation of health and safety laws and the growth of the compensation culture.

He is expected to report to the Prime Minister during the summer and will then work with the appropriate government departments to bring his proposals into effect.

### **June Budget announcements for energy and climate change**

In the autumn, the Government will publish proposals to **reform the climate change levy** in order to provide more certainty and support to the carbon price. Subject to consultation, the Government intends to bring forward relevant legislation in Finance Bill 2011.

The Budget also confirmed an announcement from the previous Government to **reduce the discount from the climate change levy** for industries participating in a climate change agreement, from 80 to 65 per cent, in April 2011, and increase the climate change levy in line with inflation

The Government also announced proposals on the creation of a **Green Investment Bank**, following the Spending Review, to help the UK meet the low-carbon investment challenge. A range of options for the scope and structure of the Green Investment Bank is being considered.

### **OGC and Buying Solutions to be part of Efficiency and Reform Group at the Cabinet Office**

Responsibility for The Office of Government Commerce (OGC) and the public sector procurement agency, Buying Solutions, will move to the Cabinet Office (from the Treasury) where they will form part of the Efficiency and Reform Group (ERG).

The Efficiency and Reform Group will have a strong mandate at the centre of government to ensure departments work together to quickly tackle waste and improve accountability across all these areas. The Group's

### **Department for Environment, Food & Rural Affairs**

For Defra, many areas of policy remain to be clarified, but the following will be of interest:

#### **Changes to arm's length bodies**

Defra has around 90 arm's length bodies and changes announced so far include:

- Withdrawing **Defra funding** from the **Sustainable Development Commission**  
[The SDC is an executive non-departmental public body established as a company limited by guarantee, jointly owned by the Governments or Administrations in England, Scotland, Wales and Northern Ireland]
- Abolishing the **Royal Commission on Environmental Pollution**

work is overseen by an Efficiency Board, co-chaired by the Minister for the Cabinet Office and the Chief Secretary to the Treasury.

### **Cabinet Office Structural Reform Plan**

The Cabinet Office was the first government department to publish a structural reform plan, setting out its new priorities, with implementation milestones clearly exposed. **Other departments have since published their reform plans.**

The Cabinet Office Plan includes:

- Reduce the **number and cost of quangos**, and abolish or move into government departments all Public Bodies which do not meet one of the three tests (technical, transparency or impartiality)

Approvals to carry out the abolitions and dissolutions of some arm's length bodies will be made via a **Public Bodies Reform Bill** which was included in the Queen's Speech. The Bill will ensure that there is a greater degree of transparency and accountability for all public bodies. Under the legislation, ministers will be provided with the powers to abolish, merge or transfer functions. The Bill will apply to **England and Wales**.

### **Cabinet Office aims to shut down 75% of government websites as part of efficiency drive**

All 820 Government websites will be reviewed to ensure they deliver value for money and all new proposed websites will have to be cleared through the Efficiency Board co-chaired by the Cabinet Office minister and the Chief Secretary to the Treasury.

The most expensive websites are identified as:

- uktradeinvest.gov.uk which costs £11.78 per visit
- businesslink.gov.uk which costs £2.15 per visit

Duplication of effort and competition among government departments & agencies are identified as issues to be addressed.

- Abolishing the Agricultural Wages Board
- Merger of **Animal Health** and the **Veterinary Laboratories Agency**

#### **Task Force on Farming Regulation**

A Task Force has been established and has been asked to identify ways to reduce this burden on farmers and food processors by reviewing regulations and their implementation. They will advise how best to achieve a risk-based system of enforcement whilst maintaining high environmental, welfare and safety standards. Their work will cover:

- farming (including horticulture);

- food issues as they apply on farm;
- food processing where farmer and processor interests overlap; and
- processing of farmed produce.

The Task Force has now called for opinions and ideas on ways to improve approaches to regulation as part of a wide-ranging consultation. In particular the Task Force are seeking examples of:

- regulations that are unnecessary and could be removed without lowering standards for business, the public or the environment;
- regulations that have had additional and unnecessary measures added to them; and
- regulations that are overly complex or disproportionate in the way that they are implemented or enforced.

Richard Macdonald, the Task force chairman has said:

“We want farmers, growers and the food industry, who often complain about excessive regulation and bureaucratic processes, to help us to improve the system. This is a major consultation exercise to identify the issues and find solutions and we encourage all interested parties to submit evidence personally or through trade and representative bodies.

“It is our intention also to get out and meet farmers, growers and food processors to get first hand views on what’s wrong and explore new and alternative ways to current regulations and processes.”

The consultation is open until 31 October. Details are available from <http://tinyurl.com/2bfct4y>

Terms of Reference and details of Task Force members can be found at <http://tinyurl.com/23refhs>

### **Structural Reform Plan**

Structural Reform Plans are intended to set clear priorities and measurable milestones for every government department, allowing people to check on how departments are meeting their commitments. Defra’s Plan lays down three departmental priorities:

- support and develop British farming and encourage sustainable food production
- help to enhance the environment and biodiversity to improve quality of life
- support a strong and sustainable green economy, which is resilient to climate change

A series of actions are set out to achieve these priorities, including:

- pursuing a zero waste agenda and launching a national tree planting campaign;
- publishing a Natural Environment White Paper, setting out measures to protect wildlife and promote green spaces;

- legislating to make it a criminal offence to allow illegal timber to enter the UK market;
- supporting economic growth in rural areas;
- promoting increased domestic food production and reducing regulation;
- pursuing further reform of the Common Agricultural and Fisheries Policies; and
- publishing a White Paper on reform of the water industry to ensure more efficient use of water and protect poorer households.

Further details from the Defra website at <http://tinyurl.com/2uoggxz>

**All departmental Structural Reform Plans** can be accessed from the Number 10 website at <http://tinyurl.com/324m5rb>, together with the regular Regular monthly progress reports on each plan.

### **Review of Waste Policy**

Defra has launched a formal review of waste policy and delivery **in England**. Full details are available from the Defra website at <http://tinyurl.com/2wv4es3>

There are a number of ways in which it is possible to respond:

- An online survey;
- An online discussion forum in a specific areas of waste policy or delivery
- Submitting a detailed response to Defra’s formal Call for Evidence

The online survey and discussion forum end on September 9. The Call for Evidence closes on 7 October. Early results of the Review will be made available in Spring 2011.

Defra says that the Review will look at all aspects of waste policy and delivery in England. Its main aim will be to ensure that the right steps are being taken towards creating a ‘zero waste’ economy. Defra will also consider whether lessons can be learned from experiences in other parts of the UK.

### **Natural environment**

Defra has published a discussion document - **Natural environment: an invitation to shape the nature of England** – and is inviting comments with a deadline of 30 October. Full details are available from the Defra website at <http://tinyurl.com/3ymf5x4>.

One issue of particular note in the discussion paper concerns ‘England’s footprint on the natural environment overseas’ (see box opposite), ending with the question

- How best can we reduce our footprint on the natural environment abroad, through the goods, services and products we use?

## An invitation to shape the Nature of England

### England's footprint on the natural environment overseas

As consumers and businesses we have an impact on the health of the natural environment overseas as well as at home. This impact is a result of the natural resources used in the production or processing and transportation of the goods and services we import. For example:

- **Water** – the average consumer in the UK uses 150 litres of water a day (equivalent to one full bath) but a further 3000 litres of water per person, per day are embedded in the food and goods which we import. Globally, one billion people do not have sufficient access to clean drinking water.
- **Timber** – we import timber to meet the needs of our construction and clean energy industries and timber is used in the production and processing of many goods for the UK markets. Illegal logging in some of the world's poorest countries undermines efforts to tackle deforestation and hence tackle climate change.
- **Palm Oil** – is the world's cheapest and most consumed vegetable oil. Expansion of palm oil plantations is the most prevalent cause of permanent forest loss in South East Asia and also drives the conversion of carbon-rich peatland soils to plantations resulting in globally significant greenhouse gas emissions and loss of valuable tropical habitats, threatening species like the Orangutan.
- **Fish** – in 2008 the UK imported around 110,000 tonnes of cod, over 65,000 tonnes of haddock, 80,000 tonnes of shrimps and prawns and over 110,000 tonnes of tuna. The Food and Agriculture Organisation reports that global fish stocks continue to decline as a result of exploitation.

We also rely on many of the wider services which are provided to us by healthy ecosystems in other countries. For example, regulating our climate, providing new medicines, and providing healthy soils and water supplies that can grow the food we need to import as part of a balanced approach to our food security.

In last 300 years global forest area has shrunk by approximately 40%. Forests have completely disappeared in 25 countries, and another 29 countries have lost more than 90% of their forest cover<sup>(19)</sup>. Since 1900, the world has lost about 50% of its wetlands<sup>(20)</sup>. More than 75% of world fisheries are fully or over-exploited. Overall, approximately 60% of the Earth's ecosystem services have been degraded by human impacts in the last 50 years<sup>(21)</sup>.

There are significant economic costs to us from the degradation of ecosystems overseas as well as economic opportunities to be gained from protecting them. For example, deforestation is responsible for approximately 18% of greenhouse gas emissions and is therefore a major driver of dangerous global climate change. In developing countries it is often the poorest who rely most on the materials and services they obtain directly from a healthy natural environment and if properly valued and maintained, these services can help build economic prosperity. This is part and parcel of the Government's approach to international development and poverty alleviation. We aim to reduce our impact on natural resources and ecosystems abroad, whilst maintaining our support for increased free trade and sustainable development with other nations.

In England, there is a role for Government, businesses and consumers to help ensure that our supply of products and goods protect the range of important services provided by a healthy natural environment abroad. We need to both reduce our own environmental footprint and promote better environmental management in other countries in order to benefit our own and the global economy.

**Question 5 – How best can we reduce our footprint on the natural environment abroad, through the goods, services and products we use?**

<sup>19</sup>. See: [www.teebweb.org](http://www.teebweb.org)

<sup>20</sup>. TEEB Interim report. See: [www.teebweb.org](http://www.teebweb.org)

<sup>21</sup>. Millennium Ecosystem Assessment 2005

### Department for Business, Innovation and Skills

Among the many changes announced by the Secretary of State for Business, Vince Cable, the following will be of particular interest:

#### **Local Enterprise Partnerships**

The coalition Government has made the decision to support the creation of local enterprise partnerships to replace RDAs. Final closure of RDAs is likely to be completed by 31 March 2012 following legislation

The BIS Structural Reform Plan includes the following action:

- Work with the Department for Communities and

Local Government (DCLG) and other government departments to abolish the Regional Development Agencies (RDAs). Support the creation of Local Enterprise Partnerships (LEPs), including working with local authorities and business to promote the early formation of LEPs to accelerate the transition of functions from RDAs and enable them to bid for the Regional Growth Fund. Ensure that the transition from RDAs to new structures at LEP or national level supports economic development

Milestones are given as:

- White Paper published on rebalancing new business

and economic opportunities – Autumn 2010

- Localism Bill (creation of LEPs) passed – Nov 2011
- Public Bodies Bill (abolition of RDAs) passed – Nov 2011
- Regional Development Agencies dissolved – Apr 2012

### **SITPRO**

SITPRO, the UK trade facilitation body, is to close (after 40 years of operation) as part of the Coalition Government's efforts to reduce the number and cost of partner organisations. SITPRO (Simplifying International Trade) is attempting to make sure that key functions are transferred to BIS with minimal disruption, and that work which is fundamental to maintaining the competitiveness of UK business can continue. SITPRO says that BIS plans to continue to provide support in simplifying trade procedures and in the removal of trade barriers, and also to maintain the dialogue with the trade that SITPRO has established.

### **Local Better Regulation Office**

BIS have confirmed that LBRO will be reviewed as part of its broader review on partnership organisations. Mark Prisk MP, BIS Minister with responsibility for better regulation stated: "Government Departments are currently reviewing partner organisations to assess the efficiency and effectiveness of these bodies and the functions that they currently perform, including LBRO."

LBRO has issued a statement in response welcoming the review which "will allow early consideration of the impact and potential of our work, creating the conditions for a simpler regulatory system which will benefit business and ensure best value for money for the taxpayer".

Full details are available from <http://tinyurl.com/3azme8v>

### **One-in, One-out**

Business Secretary, Vince Cable, has announced a comprehensive package of measures to support the Government's drive to tackle unnecessary government interference and red tape.

**From 1 September, a new One-in, One-out system will begin. When Ministers seek to introduce new regulations which impose costs on business or the third**

**sector, they will have to identify current regulations with an equivalent value that can be removed.**

The new rule has been designed to apply initially to domestic legislation affecting businesses and the third sector, with Ministers intending to expand the system in due course.

One-in, One-out will capture the net cost to business of any given measure. This means that the benefits to business will be offset against the costs to business.

Note however that Regulations in response to emergencies and to address systemic financial risks will be excluded from the One-in, One-out system.

To reinforce this radical new approach to how Whitehall will introduce new laws and regulations, and to ensure that the costs of red tape are being properly addressed across the entire British economy, the Government has also:

- agreed a set of Principles of Regulation that Government departments must apply when considering new regulations impacting upon business, social enterprises, individuals and community groups;
- asked the independent Regulatory Policy Committee to perform the role of externally scrutinising the evidence and analysis supporting new regulatory proposals, prior to policy decisions being made. It will also analyse proposals for the implementation of EU legislation. In doing so, the RPC will help drive up the accuracy and quality of Impact Assessments; and
- provided the opportunity for the public and businesses to tell the Government which onerous regulations they believe should be removed or changed through the Your Freedom website, launched last month by the Deputy Prime Minister.

Ministers will also be taking a rigorous approach to tackling EU regulations and gold plating. The Government will engage earlier in the Brussels policy process; take strong cross Government negotiating lines; and work to end so-called 'gold-plating' of EU regulations so that when European rules are transposed into UK law it is done without putting British business at a competitive disadvantage to other European-based companies.

More details are available from <http://tinyurl.com/286thrh>

## **Department of Health**

Health Secretary Andrew Lansley has published a **review of the department's 18 arm's length bodies (ALB)**, and has announced that, subject to Parliamentary approval, organisations which are no longer needed will be removed from the sector, with essential work moved to other bodies.

Changes to note include:

- **Health Protection Agency** (Executive non-Departmental public body)

– To be abolished as a statutory organisation with functions transferred to the Secretary of State as part of a new Public Health Service.

The HPA has since emphasised that it will lose its status as a NDPB but that and its functions will be transferred to the Secretary of State

"It is only the HPA's status as a Non-Departmental Public Body that is being removed - the functions of HPA will continue as part of national Public Health Service for England". It further notes that since its

current status was established by Act of Parliament, any change will require a change in law. The HPA's status is therefore not expected to change before April 2012.

"No decisions have yet been taken about how the new service will be structured. The detailed implications are only likely to become clear when a Public Health White Paper is published later in the year."

- **National Institute for Health and Clinical Excellence** (Special health authority)
  - To be retained, and put on a firmer statutory footing by establishing it in primary legislation. Expand scope to include social care standards.
- **NHS Business Services Authority** (Special health authority) - provides central services to the NHS
  - To be retained in short term, but commercial review commissioned to identify potential for increased commercial opportunities, including potential to remove functions from the ALB sector.

### **Healthier Food Mark**

The Parliamentary Under-Secretary of State for Health (Anne Milton) has announced that the **Healthier Food Mark** will not be taken forward as a discrete scheme. According to a Written Ministerial Statement (available from <http://tinyurl.com/39ry2ww>):

"Over the last two years, the Department has been developing a scheme to improve the nutritional content and sustainability of food served in the public sector, provisionally known as the Healthier Food Mark. The Department has been working across Government on this, and particularly closely with both the Food Standards Agency and the Department for the Environment, Food and Rural Affairs (DEFRA). Two pilots, involving over 70 organisations from across the public sector, have been completed.

"I am announcing today that the Healthier Food Mark will not be taken forward as a discrete scheme. Instead, the considerable body of evidence and learning from the development of both the nutrition and sustainability criteria will be used to help develop Government buying standards for food procurement in the public sector.

"Government buying standards ensure that the public sector procures sustainable goods and services. They are mandatory for central Government Departments and their Executive agencies and are promoted to the wider public sector. The Government buying standards for food will take account of the evidence gained from the pilots of the Healthier Food Mark. DEFRA, working with the Department of Health and other Government Departments, will assess the costs and benefits of a number of options for criteria to be included in the Government buying standards for food to address both nutrition and sustainability. The standards will be consulted on in the autumn."

### **Department of Energy and Climate Change**

The Department of Energy and Climate Change (DECC) has confirmed that £34m in savings will be realised from cuts to low-carbon technology funding, including an

immediate reduction to this year's grant for low carbon technology and business support funding for the **Carbon Trust**

### **Food Standards Agency**

The Government has confirmed its intention to retain the Food Standards Agency as a non-ministerial Government Department but with a renewed focus on food safety.

The FSA **in England** will focus on its core remit of food safety policy and enforcement. The Department of Health will become responsible for nutrition policy **in England**, and the Department for Environment, Food and Rural Affairs will become responsible for various non-safety-related food labelling and food composition policies **in England**.

**The following policies in England will be brought into the Department of Health:**

- leading on nutritional labelling and EU negotiations on this;
- health and nutrition claims, dietetic food and food supplements;
- calorie information in catering establishments;

- reformulation to reduce salt, saturated fat and sugar levels in food and reducing portion size (including in catering);
- nutrition surveys and nutrition research;
- scientific advice and secretariat to Scientific Advisory Committee on Nutrition (SACN).

**The following policies in England will be brought into the Department for Environment, Food and Rural Affairs:**

- food labelling, where this does not relate to food safety or nutrition;
- food composition standards and labelling, where unrelated to food safety;
- leading on EU negotiations for all non-safety aspects of food labelling, except for nutrition.

**The FSA will remain a non-ministerial department reporting to Parliament through DH ministers.** It will retain a clearly defined departmental function focused on

its core remit of food safety. On crucial issues of food safety, the independent advice from FSA experts will continue to be final. **The Agency will also retain its current responsibility for nutrition and labelling policy in Scotland, Wales and Northern Ireland.**

Approximately 70 policy posts will move from the FSA to the Department of Health and 25 to Defra. Approximately 2,000 staff will remain at the FSA; a large majority of these are from the former Meat Hygiene service, recently integrated into the FSA structure.

For Defra, the policy transfer is immediate, with affected staff already reporting to Defra ministers and joining the Food Policy Unit at Defra (although though they will continue to work from the FSA offices for the time being, with physical moves for staff between offices following later, expected to be during September). The exact timing for the transfer from FSA to the Department of Health will be available in due course.

All of these changes can be put in place without any need for primary legislation

The government says that the transfer of nutrition policy into the Department of Health will directly contribute to its plans for public health. In the long-term, bringing policies 'in house' will enable better services to be created and clearer information to be given to the public.

"The Department of Health will, as a result, be able to press industry to contribute more on improving the health of the nation. This includes reformulation, and provision of nutrition information in supermarkets and restaurants."

For the changes involving Defra, country of origin labelling has been given particular emphasis in government announcements. The government says that this will support delivery of its commitment to deliver honesty in food labelling and ensure that consumers can be confident about where their food comes from. It will also support delivery of one of Defra's top priorities – Ministers' firm commitment to support and develop British farming and encourage sustainable food production, and promote increased domestic food production.

Details are available from <http://tinyurl.com/2vu69qa>.

## UK Industry calls for improved F Gas Regulation Enforcement

An industry-wide analysis of the F Gas Regulation in the UK carried out by the Air Conditioning and Refrigeration Industry Board (ACRIB) has found that the single most significant barrier to effectiveness of the Regulation is the lack of visible enforcement, policing and mechanisms to guarantee compliance or report non-compliance.

"The consensus of industry, many elements of which have made considerable investment in compliance, is that containment works, but improved enforcement is necessary to fully achieve the emissions reductions possible under the Regulation," stated Mike Nankivell, Chairman of the ACRIB F Gas Implementation Group.

An ACRIB position paper reviewing F Gas Regulation in the UK, based on industry's practical experience to date has been endorsed by the various industry groups represented by ACRIB. In addition to calling for increased support from UK Government in raising awareness of leakage issues amongst equipment owners, the ACRIB position paper emphasises that sufficient time is necessary to fully assess the positive impact of industry initiatives to reduce leakage such as the IOR's REAL Zero project.

ACRIB President David Bostock, said: "We can see in the many positive steps taken by supermarket groups and retailers to comply with the Regulation that there has been a definite reduction in emissions from these sectors. We now need increased Government support in raising awareness of leakage issues and ensuring compliance across all industry sectors."

The paper makes seven key recommendations which

industry believes will increase the effectiveness of the F Gas Regulation in the UK.

- The introduction of mandatory individual registration and public databases of company certification scheme members
- That refrigerant suppliers be responsible for ensuring that only appropriately certified individuals can be supplied with F Gas refrigerants.
- An awareness campaign aimed at equipment operators covering enforcement in combination with a 'non-compliant' operator reporting service.
- Government to ensure that standards are maintained by the UK's two bodies appointed to issue individual training certifications.
- Government actively monitor all three company certification bodies to ensure common standards industry-wide.
- Company certification bodies be authorised to carry out greater verification of applicants.
- More active enforcement and increased policing of operators' legal obligations under the Regulation to take place

ACRIB is calling for an open dialogue with all relevant policy makers into its findings, and recommends that they form the basis of UK input into the EU review of the Regulation in July 2011.

The ACRIB position paper, "**Assessment of the effectiveness of the EU F Gas Regulations in the UK**

based on experience of application by the stationary refrigeration, air conditioning and heat pump industry in the UK” is available from the ACRIB website at [www.acrib.org.uk](http://www.acrib.org.uk), or can be downloaded directly as <http://tinyurl.com/2cjta2x>

The member organisations of ACRIB are AMDEA, ARC, BFFF, CIBSE, FETA, FSDF, HVCA, and IOR

## Refcom Elite Best practice in refrigerant handling

The **Refcom Register of Companies Competent to Handle Refrigerants** was set up in 1994 as a voluntary scheme to promote the responsible handling of ozone depleting refrigerant gases. The Register later evolved to cover fluorinated refrigerant gases - widely used in the industry for their stable, non-flammable and energy efficient qualities, but with a high global warming potential if released.

Refcom has recently been appointed to operate as a Certification Body under the stationary equipment provisions of the Fluorinated Greenhouse Gases Regulations – firstly in June 2009 by the Secretary of State for the Environment, Food and Rural Affairs, and then by the Department of Environment in Northern Ireland under separate NI Regulations.

**As well as undertaking this statutory certification role, Refcom is continuing to operate its long-standing voluntary company registration scheme, which requires higher standards than those stipulated in the F gas Regulations. The voluntary scheme has been renamed Refcom Elite**

**Refcom Elite** encourages employers to operate entirely to industry best practice; for them to be environmentally aware and to operate fully in compliance with current legislation; and for their operatives to be suitably trained and competent to carry out their work in accordance with Company procedures. The Refcom Elite set of high professional standards are recognised by The Air Conditioning and Refrigeration Industry Board (ACRIB) and the RAC Industry.

**Best Practice in Refrigerant Handling** means working to industry Codes of Practice and in compliance with all current legislation to ensure containment of refrigerant of any type. Work activities covered includes installation, commissioning, servicing, maintenance, leak checking and decommissioning on any kind of stationary refrigeration, air conditioning or heat pump equipment.

Though designed for contractors, registration is also open to end-users and equipment and refrigerant distributors who wish to set themselves apart from the competition by demonstrating conformity with our high standards.

Registration with Refcom Elite proves to owners/operators that, following independent third party inspection, refrigeration or air conditioning companies:

- can competently install, commission or maintain a system containing refrigerant
- are licensed waste carriers
- handle refrigerants safely
- are compliant with all current legal requirements
- operate auditable procedures for the proper control of refrigerants and can account for all refrigerant used and recovered
- use appropriate, purpose-designed refrigerant recovery equipment
- perform refrigerant transactions with minimum emissions and are environmentally aware

Full details are available from the Refcom website at [www.refcom.org.uk/refcom\\_elite.aspx](http://www.refcom.org.uk/refcom_elite.aspx)

## Refrigeration Road Map gives directions to lower emissions

**‘Refrigeration Road Map - An action plan for the retail sector’** is a new publication available from the Carbon Trust.

The Road Map introduces the main energy saving opportunities for refrigeration use in the retail sector and demonstrates how simple actions save energy use, cut costs and increase profit margins.

It was developed in association with the Institute of Refrigeration and the British Refrigeration Association. Although first announced earlier this year in March, final ‘publication’ was delayed until recently.

The Road Map is said to be key reading for anyone involved in the design, specification, purchasing or innovation in retail refrigeration

It is available to download from the Carbon trust website at <http://tinyurl.com/32l2z8s>. Downloading is free of charge, but requires registration and login.

The Refrigeration Road Map was developed using information obtained from a range of sources, including published literature and consultation with industry. This information has been used to identify the carbon emissions savings, relative cost and limits to commercial maturity of a range of technologies.

For the purposes of the Refrigeration Road Map the term ‘technology’ has been used to cover both technical options and non-technological behavioural changes such as training and maintenance improvements.

Each technology included in the Refrigeration Road Map

has been compared to a 'baseline', or typical supermarket, and the relative CO<sub>2</sub>e savings compared. It has also been evaluated for the time required for the technology to be implemented, and the relative payback period has been identified.

Opportunities are clearly identified as falling within one of four distinct categories:

- CO<sub>2</sub>e saving options that can be **retrofitted**
- CO<sub>2</sub>e saving options that can be implemented **during a store refit**
- CO<sub>2</sub>e saving options available when **designing a new store/retail concept**
- **Future technologies**

## Life after the virgin HCFC ban

The British Refrigeration Association (BRA) and F-Gas Support have together produce a handy guide to the phase-out of HCFCs.

The 2-page leaflet provides a brief overview of the rules regarding the use of HCFC refrigerants (such as R22) in the UK. It provides an update for refrigeration engineers, based on the new EU Regulation on ozone depleting

substances (EC 1005/2009) that came into force on 1st January 2010.

Copies can be accessed on the Defra website at <http://tinyurl.com/34nrwq7>, or downloaded directly as <http://tinyurl.com/3xl7kbs>

## Foodborne Disease Strategy 2010-15

The Food Standards Agency has published its draft Foodborne Disease Strategy for the period 2010-2015. There are separate consultations in England, Wales, Scotland and Northern Ireland, each with a closing date of 2 September. The consultation papers for England can be found at <http://tinyurl.com/33q8wln>

The FSA identifies the purpose of the consultation as follows:

"To seek views on the priorities, approach and objectives of a renewed Agency strategy for the reduction of UK foodborne illness for 2010-15. The draft Foodborne Disease Strategy 2010-15 describes the proposed approach of focusing on the control of key foodborne pathogens that have been identified for priority action. As such, the draft strategy describes the overall approach that will be taken and is not a detailed plan of work, which will be developed separately for each work area. It should be seen alongside other FSA work in related areas."

The FSA notes that it has been working to reduce UK foodborne disease since its formation in 2000. Actions and interventions over that period have resulted in a number of significant advances (in the scientific understanding, technical know-how and awareness and understanding among consumers and food industry workers), but this has not been accompanied by a significant and sustained reduction in the number of cases of foodborne illness that still occur each year.

To address this issue, it is now proposed that the FSA will continue to support commodity specific measures to improve the safety of different foodstuffs across the food chain and combine this with a more targeted approach to reducing levels of specific foodborne pathogens to deliver the greatest public health gains. Key pathogens have been identified where tailored risk management programmes can be used to focus effort and identify appropriate

intervention points to produce a decrease in contamination levels and, thereby, disease rates in the UK population.

The key features of the draft Foodborne Disease Strategy 2010-15 are identified as including:

- develop and implement a Risk Management Programme to reduce **campylobacter in chicken**. This will include working in partnership with industry, retailers and other stakeholders to review existing evidence and effective interventions available to reduce campylobacter in chicken, and developing a target for the reduction in levels of campylobacter in raw chicken at retail by December 2010, to be achieved by April 2015.
- develop a Risk Management Programme for **listeria**, that will undertake risk assessment and, where necessary, new research to increase understanding of the risks and drivers of listeriosis in the UK by March 2013, then draw up and implement an action plan based on the findings by 2015.
- develop programmes for control of other significant foodborne pathogens by March 2011.
- refresh food hygiene campaign activities to support Strategy objectives by the end of 2010, to improve domestic food safety culture (awareness and behaviour) and achieve long-term behaviour change by consumers.
- map and analyse Strategy stakeholders and proactively engage with key stakeholders to assist achievement of the Strategy vision and objectives.
- carry out research to provide a sound evidence base upon which risks and actions can be

assessed and Strategy activity can be planned and implemented, as required.

Specific questions asked in the consultation are:

1. Whether the overall approach described (i.e. pathogen specific action, rather than commodity-focused) is the most appropriate to achieve the intended outcome
2. Whether the FSA has prioritised for action the

pathogens that, if the strategy is successful, will lead to the greatest reduction in the incidence and burden of UK foodborne disease

3. Whether it is likely that successful achievement of the objectives described in the Strategy will deliver a significant reduction in UK human foodborne disease

## Reducing the Risk from E. coli O157 Controlling cross contamination

The Food Standards Agency is developing guidance on how food businesses should control the risk of cross-contamination by E. coli O157 and how those delivering official controls can gain assurance that food business controls are adequate and effective. It has issued a consultation paper to invite stakeholder views on the principles to be applied in controlling the risk.

There are separate consultations in England, Wales, Scotland and Northern Ireland, each with a closing date of 5 October. The consultation papers for England can be found at <http://tinyurl.com/33zj58a>

The FSA action is in response to the (Pennington) Report of the Public Inquiry into the 2005 E. coli O157 outbreak in Wales. This was published in 2009 and made a number of recommendations, to which the Agency is now responding on a UK-basis.

In relation to this consultation, the FSA identifies the following recommendations as the most significant:

- **Recommendation 1:** All food businesses must ensure that their systems and procedures are capable of preventing contamination or cross-contamination of food with E. coli O157
- **Recommendation 4:** The principles underpinning the Butchers' Licensing Scheme...should guide food hygiene measures in businesses processing raw meat and unwrapped ready to eat foods
- **Recommendation 5:** The Food Standards Agency should review its current guidance and should be proactive in generating new guidance where needs are identified
- **Recommendation 6:** The Food Standards Agency should remove the confusion that exists among food business operators about what solution(s) should be used to prevent cross-contamination from surfaces and equipment

The FSA notes that E. coli O157 is a particularly dangerous organism due to:

- its very low infective dose that can cause serious illness and death
- its ability to survive acidic environments, refrigeration and freezing

and that young children, the elderly and immune-

compromised individuals are particularly at risk. While not exclusively meat-borne, the fatalities in Scotland (1996) and Wales (2005) were due to cross-contamination of food by E. coli O157 from raw meat in a butcher's premises.

The FSA's 'proposal' from the consultation document notes that:

- **"The best possible protection would require complete physical separation between raw and RTE (i.e. high risk) food operations at manufacturing, wholesale, retail, catering and domestic levels."**
- **"It is intended that the guidance will apply to all food businesses handling raw and RTE foods, irrespective of size or type of business."**

The Agency says that it has looked into the possibility of introducing specific national legal rules requiring physical separation of raw and RTE foods at all stages of preparation and handling. However it notes that **clear case law from the European Court of Justice says that where there are detailed EU rules, as in this case, the member states may not introduce their own national rules.** The Agency therefore intends, subject to views obtained from this consultation, to develop guidance. The underpinning principle that informs the guidance will be that every consumer needs to be protected from the risk of an isolated instance of low-level contamination of food by E. coli O157.

The following text is taken from the Impact Assessment:

12. The FSA wants to ensure that FBOs implement effective control of cross-contamination with E.coli O157. This reflects the risk that E.coli O157 poses to public health and the consequent need for stringent measures to control the particular risks associated with this pathogen at every stage of food production and preparation. We also want to ensure effective control by FBOs of cross contamination risks from other Verotoxigenic strains of E.coli, as well as other microbiological hazards which may be present in the types of food operations described below.

13. The requirement applies to all FBOs beyond primary production, where additional measures are considered necessary to control cross-contamination. **The FSA considers that effective controls will be necessary where raw ingredients, which may be expected to be**

occasionally contaminated with E.coli O157 are handled in the same establishment where ready-to-eat food is also handled. Examples of raw foodstuffs known to be possible sources of E.coli O157 include the following:

- Raw meat;
- Raw root vegetables, fruit or other vegetables that are liable to have been contaminated by soil, other than products that are specifically sold as ready-to-eat or safe for consumption after application of potable water to remove extraneous material;
- Raw milk; and
- Raw milk products other than products that have been specifically sold as ready-to-eat.

14. In addition, requirements will need to address the cross-contamination risks associated with food preparation surfaces and equipment such as chopping boards, knives, slicers, mincers and vacuum-packing machines. The potential indirect routes for cross-contamination via food handlers also need to be controlled.

15. As a consequence of their contact with foodstuffs,

materials that have been used for the wrapping and packaging of foods that may be contaminated with E.coli O157 should also be treated as a potential pathway for cross-contamination.

16. The FSA also proposes technical control measures in relation to cleaning and decontamination protocols for controlling the risks associated with E.coli O157, as well as effective hand cleaning procedures.

17. It should be noted that these proposals do not cover the decontamination of foods that may already contain E.coli O157 or other microbiological pathogens. Such controls through cooking or other processing steps are adequately covered in existing guidance published by the FSA.

18. In addition to setting out controls necessary to produce safe food, the FSA proposes to provide advice on measures which would reduce the risk of contamination of the outer surfaces of pre-packed foods.

The E.coli Public Inquiry report from Professor Hugh Pennington was published in March 2009. Full details are available from <http://tinyurl.com/cc7ngk>

## UK research and innovation strategy for campylobacter in the food chain

The UK's main public funders of food safety research have joined together to publish a co-ordinated strategy to investigate the food bug campylobacter. This is the first time these organisations have agreed to a common set of objectives to tackle the problem.

The Food Standards Agency, the Biotechnology and Biological Sciences Research Council (BBSRC), the Department for Environment, Food and Rural Affairs, the Northern Ireland Department for Agriculture and Rural Development and the Scottish Government have all agreed to support the strategy. Full details are available from the FSA website at <http://tinyurl.com/24wsyat>

The FSA notes that experts agree that there is no single solution to this problem, but the new strategy aims to

identify a range of mechanisms that could significantly reduce the levels of campylobacter in the food chain and reduce the incidence of human disease. The new strategy includes:

- research to understand current infection incidences, current food and farming practices and potential intervention strategies
- studies of the biology of campylobacter and the animal hosts
- the development of new tools and diagnostic techniques (for example, feasibility of developing a rapid on-farm test for campylobacter)

## Proceedings of the international meeting on campylobacter reduction in chicken

The Food Standards Agency has also published the proceedings of an international meeting it hosted earlier this year to identify and prioritise key interventions to reduce campylobacter in chicken in the UK. Full details are available from the FSA website at <http://tinyurl.com/23vvmvz>

Agency officials and representatives from UK industry met with their counterparts from around the world to discuss which interventions had worked in other countries and the potential solutions that could be used in the UK.

The report of the meeting sets out the key actions recommended by experts at the meeting. The FSA says

that it will be taking forward a series of actions informed by these findings, in partnership with the UK poultry industry, retailers and Defra. The actions include:

- implementing stricter biosecurity measures across the whole supply chain, such as ensuring hygiene barriers are standard on the farm and initiating trials of new fly-control systems
- developing new standards and additional monitoring for the evisceration process to minimise cross-contamination when chickens are slaughtered
- trialling new carcass decontaminating treatments using existing 'kitchen cupboard' ingredients, such as

lactic acid (and other organic acids), to provide safety and efficacy data for applications to the European Commission to permit their use

- investigating the impact of different packaging types on reducing levels of campylobacter on chickens on retail sale

**A role for freezing was identified by several contributors at the conference (Denmark, Belgium, Sweden, Iceland, and Canada), but with caution for lack of consumer demand / acceptance.**

## Guidelines on the Control of Viruses in Food

Codex is currently developing **Guidelines on the Application of General Principles of Food Hygiene to the Control of Viruses in Food**. This will next be considered as an agenda item at the 42nd Session of the Codex Committee on Food Hygiene (to be held in Kampala, Uganda from 29 November to 3 December 2010).

- Proposed Draft Guidelines on the Application of General Principles of Food Hygiene to the Control of Viruses in Food (Codex reference CX/FH 10/42/5)

Draft guidelines were previously considered at the 41st Session of the Committee, where the Committee concluded that additional work was necessary. The Committee agreed to establish a physical working group, which was led by the Netherlands and attended by the FSA, in order to revise the proposed draft Guidelines, taking into account comments received and additional

information to be gathered.

The FSA has now made available a copy of revised proposed draft guidelines for possible comment, and is asking for any comments to be provided by Wednesday 8 September 2010.

The FSA notes that guidelines ultimately aim to provide advice to governments on a framework for the control of human enteric viruses, especially Norovirus and hepatitis A and, with a view towards protecting the health of consumers and ensuring fair practices in food trade.

If any BFFF members wish to see a copy of the draft guidelines, please contact the Long Bennington office.

## Animal By-Products (Enforcement) (England) Regulations 2011

Defra has issued consultation papers on proposals for the Animal By-Products (Enforcement) (England) Regulations 2011. Full details are available from the Defra website at <http://tinyurl.com/2v33ozy>. The closing date for responses is 10 September.

Note that the regulations (and the consultation) refer only to England. There will be parallel legislation and separate consultations in Wales, Scotland, and Northern Ireland.

The regulations will provide for enforcement in England of the new EU Animal By-Products Regulation, and of the corresponding Implementing Regulation, which will both apply from 4 March 2011. **The England regulations will also make provision for certain derogations and areas of national discretion, which are available under the new EU legislation.** The consultation papers do not actually include a draft SI, but the consultation document does indicate Defra's likely intentions regarding derogations and areas of discretion.

**As readers will be aware, the existing EU regulation on animal by-products (1774/2002) is to be replaced, following an extensive review process carried out since 2005. A new animal by-products regulation was published in the Official Journal in November 2009, and will apply from 4 March 2011, revoking and replacing the current regulation 1774/2002.**

- Regulation (EC) No 1069/2009 of the European Parliament and of the Council of 21 October 2009 laying down health rules as regards animal by-

products and derived products not intended for human consumption and repealing Regulation (EC) No 1774/2002 (Animal by-products Regulation), available to download from <http://tinyurl.com/yck7ye6>

**Much of the important detail of the new EU legislation will of course be contained in the implementing rules, which the basic regulation makes provision for. The implementing regulation has not yet been finalised, but Defra says that it expects a final agreed text to be available in the early Autumn.**

A recent working draft text for the implementing regulation is available (under document reference SANCO/ 7066/2010 rev. 6, dated 15.07.2010), and can be downloaded from the Defra website at <http://tinyurl.com/28ksttm>

- Draft Commission Regulation (EU) No .../. of [...] implementing Regulation (EC) No 1069/2009 laying down health rules as regards animal by-products and derived products not intended for human consumption and repealing Regulation (EC) No 1774/2002 and implementing Council Directive 97/78/EC as regards certain samples and items exempt from veterinary checks at the border (Commission Regulation on animal by-products)

The draft implementing regulation runs to more than 340 pages. The vast majority of this consists of a series of detailed Annexes (including model health certificates), but

there are still a number of section headings in the draft text where no detailed content is yet evident. Some of these missing sections may prove to be of interest, for example:

- Annex XII Requirements applicable to certain approved establishments and plants  
Section 1 General requirements  
Chapter II Prevention of cross-contamination within food businesses (page 97); and
- Annex XIII Own checks and HACCP (page 103)

**One section in the draft implementing rules that will be of interest covers the situation of certain 'former foodstuffs' – in Annex V (Disposal and recovery) Section IV (Landfilling of certain materials), paragraph 2 (page 37):**

**Annex V (Disposal and recovery)  
Section IV (Landfilling of certain materials)**

2. By way of derogation from Article 14 (c) of the Animal By-products Regulation, the competent authority may authorise the disposal of Category 3 materials referred to in Article 10(f) and (g) of the Animal By-products Regulation in an authorised landfill, in accordance with Article 5 of Directive 1999/31/EC, provided that:

(a) such materials have not been in contact with any animal by-product referred to in Articles 8, 9 and 10(a) to (e) and (h) to (p) of the Animal By-products Regulation

(b) at the time when they are destined for disposal, materials:

(i) referred to in Article 10 (f) of the Animal By-products Regulation have undergone processing as defined in Article 2(1)(m) of Regulation (EC) No 852/2004; and

(ii) referred to in Article 10 (g) of the Animal By-products Regulation have been processed in accordance with this Regulation; and

(c) the disposal of such materials does not pose a risk to public or animal health.

Article 10(f) of the Animal By-products Regulation refers to products which are no longer intended for human consumption for commercial reasons or due to problems of manufacturing or packaging defects or other defects.

**In the earlier (present) regulation this category of product is defined under the heading 'former foodstuffs', but this term is not used as such in the new regulation.**

Article 10 Category 3 material

Category 3 material shall comprise the following animal by-products:

(f) products of animal origin, or foodstuffs containing products of animal origin, which are no longer intended for human consumption for commercial reasons or due to problems of manufacturing or packaging defects or other defects from which no risk to public or animal health arise;

The reference to 'processing' in Annex V above is from the definitions included in the general hygiene regulation (852/2004):

(m) 'processing' means any action that substantially alters the initial product, including heating, smoking, curing, maturing, drying, marinating, extraction, extrusion or a combination of those processes;

(n) 'unprocessed products' means foodstuffs that have not undergone processing, and includes products that have been divided, parted, severed, sliced, boned, minced, skinned, ground, cut, cleaned, trimmed, husked, milled, chilled, frozen, deep-frozen or thawed;

Defra's consultation document includes the following comments and question:

**Disposal of former foodstuffs to landfill**

36. Annex V, Section IV of the draft Implementing Regulation provides a derogation from Articles 12 and 14(c) of ABPR 1069/2009, enabling Member States to allow Category 3 material cited under Article 10(f) and (g) (i.e. "former foodstuffs, feedstuffs and processed petfood") to be disposed of in an authorised landfill, provided certain conditions are met. These rules are very similar to transitional measures provided for under ABPR 1774/2002

Q17. Are you content for us to maintain the current national derogation that allows disposal of certain former foodstuffs to authorised landfill?

What would the impacts be on affected sectors (both benefits and costs)? Please quantify if possible.

For details regarding the existing measures for 'former foodstuffs', see Defra's website at <http://tinyurl.com/23sk26d>

Other areas of interest, including the following (with Defra's comments from the consultation document):

**Derogation to allow disposal of small quantities**

18. Under the implementing rules, which remain under discussion, this is likely to be restricted to those generating small quantities of food waste containing ABPs i.e. low risk category 3 material to be disposed of with other general waste and would be of benefit to small retailers or food manufacturers. We would propose to use this derogation provided it is limited in the way proposed.

Q9. Do you have any comments on our proposal to allow disposal of small quantities of category 3 material? Please state how this would work in practice for you and give any conditions you think should apply. What would the impacts be on affected sectors (both benefits and costs)? Please quantify if possible.

**Conditions to allow eggshells and shellfish shells to be spread to land**

28. The new ABPR 1069/2009 newly allows for category 3 shellfish shells and eggshells to be used under conditions determined by the Member States to prevent risks to public and animal health.

29. For shellfish shells we propose to require operators to

demonstrate that the shells are “free of flesh” (using criteria to be laid down) in which case controls on their use would be removed from the scope of the regulation. We would propose to require any shells with flesh present to be processed in accordance with the Regulation.

30. For eggshells we are proposing to use the derogation to allow these to be spread to land and intend to implement this by prohibiting the application to land unless certain conditions are complied with in order to prevent the spread of disease e.g. Salmonella. We propose to require the shells to be processed in accordance with the ABPR 1069/2009 (i.e. using the methods set down in Annex VII, Section III of the draft Implementing Regulation) unless the following conditions are met in which case the shells could be spread onto land without heat treatment:

- 1) The eggs can be traced back to egg laying flocks which have been sampled by the operator and the Competent Authority under the requirements of the Salmonella National Control Programme (NCP) in laying flocks in the UK (or equivalent NCPs in countries other than UK), and
- 2) the eggs were laid by flocks which were negative for

the Salmonella serovars for which a Community target for their reduction is set out in Regulation (EC) 1168/2006 and according to the testing protocol laid out in the Salmonella National Control Programme during the laying phase of the flocks and the flocks or the eggs produced by the flocks are not subject to any restrictions imposed under national or EU legislation

3) the eggshells have undergone a technical process to ensure that the egg residue in the end product has been reduced to at least 4%.

31. For the spreading of both eggshells and shellfish shells we propose to retain powers to ban the spreading to land, for example following an outbreak of notifiable disease and/or reportable infection.

Q15. Do you agree with our proposal to allow eggshells and/or shells from shellfish to be spread to land provided the above conditions are met? Please comment on any alternative conditions you think could or should apply.

What would the impacts be on affected sectors (both benefits and costs)? Please quantify if possible.

## Proposed changes to the structure of EU food additives legislation

The Food Standards Agency is consulting on proposed changes to the structure of EU food additives legislation. There are separate consultations for England, Wales, Scotland, and Northern Ireland.

The consultation for England has a closing date for comments of 27 August; details are available from <http://tinyurl.com/3422zpm>

The consultations for Wales, Scotland, and Northern Ireland. have similar timescales and can be accessed from [www.food.gov.uk/consultations/](http://www.food.gov.uk/consultations/)

The Food Safety Authority of Ireland consulted at an earlier stage on this same issue, earlier this year.

Readers will be aware of the package of legislative measures that were introduced to update and simplify the current legislation dealing with food additives, flavourings and (new controls) enzymes. The new package of four regulations collectively relating to ‘**food improvement agents**’ was adopted and published at the end of 2008

- Regulation (EC) No 1331/2008 of the European Parliament and of the Council of 16 December 2008 establishing a common authorisation procedure for food additives, food enzymes and food flavourings
- Regulation (EC) No 1332/2008 of the European Parliament and of the Council of 16 December 2008 on food enzymes and amending Council Directive 83/417/EEC, Council Regulation (EC) No 1493/1999, Directive 2000/13/EC, Council Directive 2001/112/EC and Regulation (EC) No 258/97
- Regulation (EC) No 1333/2008 of the European Parliament and of the Council of 16 December 2008

on food additives

- Regulation (EC) No 1334/2008 of the European Parliament and of the Council of 16 December 2008 on flavourings and certain food ingredients with flavouring properties for use in and on foods and amending Council Regulation (EEC) No 1601/91, Regulations (EC) No 2232/96 and (EC) No 110/2008 and Directive 2000/13/EC

**All four regulations entered into force 20 days after publication in the Official Journal, but there are various transition periods etc before the regulations have full effect.**

**Article 30 of Regulation 1333/2008 on food additives requires additives permitted in foods and their conditions of use to be transferred from the Annexes in the three previous Directives (95/2/EC – miscellaneous additives, 94/35/EC – sweeteners, and 94/36/EC – colours) to Annex II of Regulation 1333/2008.**

In addition, Article 4.3 of the Regulation specifies that the additives shall be listed on the basis of the categories of food to which they may be added. To this end, **the European Commission has developed a hierarchical Food Categorisation System (FCS), based on the Codex General Standard on Food Additives (GSFA), but adapted to European stakeholders’ requirements.**

The European Commission has created a series of draft tables, covering 16 major food categories and subdivided in turn into a large number of sub-categories (which comprise the FCS). **Additives permitted to be used are listed against each sub-category, together with any conditions of use.**

The tables take into account comments already received from EU Member States and those received during bilateral stakeholder consultations. An introduction document to the FCS has also been drafted.

**The FSA says that it is now seeking comments from all UK stakeholders in order to provide a further check on accuracy, and to identify if there are any errors or omissions in the tables as regards permitted additives.**

The FSA also says that comments will be welcomed on the descriptors of the food categories which can be found in the second worksheet in each workbook. [Note that the consultation paper is actually packaged as a pdf document, and comments to workbooks cannot be taken literally]. **The Commission plan, at the current time, is that these descriptors will be indicative/advisory rather than legally binding.** Comments would also be appreciated on the draft introductory document to the FCS.

A timetable for completion of the FCS project is included in the FSA paper as Annex D (page 47 of 223):

- Commission to finalise FCS and to informally consult stakeholders by April /May 2010
- Consultation with Member States at Working Group level in June and July 2010
- Final consultation with Member States at Working Group level before October 2010
- Vote at Standing Committee in Brussels by January 2011
- **FCS likely to come into force by June 2011**, at which time the relevant Annexes and corresponding Articles in Directives 95/2, 94/35 and 94/36 will be repealed.

Although the closing date for responses is 27 August, earlier comments to the FSA would be appreciated.

It is unlikely that anyone will work through the full set of tables, but readers may wish to examine in detail one or more areas of particular individual interest. There may also be views on some of the product descriptors.

**Note that it is not intended that any new or additional**

**uses of additives should be permitted by this exercise. It is not completely clear however whether any existing additives or specific uses have been dropped during the review process. Regulation 1333/2008 actually requires Community lists of approved additives to be re-established, with existing additives subject to a two-stage review process. In the first stage process, the Commission (assisted by the Standing Committee on the Food Chain and Animal Health) is to review existing authorisations for criteria other than safety.** Articles 6, 7, and 8 of the Regulation detail the conditions which must be satisfied by additives for inclusion in the Community lists – these are broadly similar to the conditions for use that are included in the current legislation, although the wording used is not identical.

**Footnote:**

The 16 food categories are as follows:

1. Dairy products	10. Eggs and Egg products
2. Fats and Oils	11. Sugars and Sweeteners
3. [Not used]	12. Salt, Spices, Seasonings, Sauces etc.
4. Fruit and Vegetables	13. PARNUTS
5. Confectionery	14. Beverages
6. Cereals & Cereal Products	15. Snacks
7. Bakery Wares	16. Desserts
8. Meat and Meat Products	17. Food Supplements
9. Fish and Fish Products	

The new regulations in the Food Improvement Agents package can be accessed from the DG SANCO area of the Europa website at <http://tinyurl.com/22u23nc>

The previous legislation, which includes current lists of additives and approvals, can be accessed from <http://tinyurl.com/2d5tgoh>

## The Food Information Proposal

**The detailed examination of the Commission’s proposal for a regulation on the provision of food information to consumers continues to progress through the EU’s ‘ordinary’ legislative procedure’, still at the first reading stage.**

Readers should note that the legislative process is now properly referred to as the **‘ordinary legislative procedure’**. Following the Lisbon treaty, this has become the correct description for what was previously referred to as the **‘codecision procedure’**. However, ‘Codecision’ continues to be widely used.

**European Parliament**

The European Parliament has voted in plenary session at

first reading, adopting a large number of amendments to the Commission’s proposed text. The Parliament’s first reading position can be found at <http://tinyurl.com/2exwlkh>

Parliament’s position is presented as amendments to the Commission’s original proposal, and readers may need to refer to the Commission’s text in order to place some of the amendments in a proper context (available from <http://tinyurl.com/268s3de>

A large number of amendments to the Commission’s original text were proposed – 349 in total (247 from the ENVI Committee report with 102 tabled subsequently). Around 250 amendments were adopted (mostly adopted

in full, but a few only in part).

Many of the proposed amendments from the ENVI report were voted as a single block and did not receive individual attention - more than 150 individual amendments were adopted in this way through a single voting procedure.

**Among the amendments adopted by the Parliament were a number that will be of particular interest, relating to a range of issues:**

- Commission to provide a list of all labelling requirements from EU law (Amendment 41)
- Place of provenance vs country of origin; Place of provenance included in mandatory particulars (Amendments 50 and 101/328; also Amendment 172)
- Date of freezing included in mandatory particulars (Amendments 62 and 97)
- Name and address of the manufacturer / packager / seller / importer included in mandatory particulars (Amendment 100)
- Nanomaterials – list of ingredients (Article 130)
- Mandatory nutrition declaration to also include protein, carbohydrates, fibre, natural and artificial trans fats (Article 144; also nutrition declaration table Amendment 319)
- ‘National measures’ for non-prepacked food (Amendment 184)
- Removal of provision for ‘Development of National Schemes’ (Amendment 301)
- Additional labelling requirements – ‘contains appetite-enhancing ingredients’ and ‘with combined meat parts’ (Amendments 275 and 276)
- Mandatory particulars accompanying the name of the food – specific treatments including ‘refrozen’ and ‘defrosted’ (Amendment 225)
- Mandatory particulars accompanying the name of the food – additional ingredients of different (animal) origin (Amendment 226, 227, 228)
- Designation of certain ingredients by the name of a category rather than a specific name – specification of vegetable oils by specific origin, and use of ‘may contain’ (Amendment 263)
- Designation of certain ingredients by the name of a category rather than a specific name – specification of fats by specific origin (Amendment 279)

The Parliament also rejected a proposed amendment that would have removed the ‘nutrient profile’ provision in the nutrition and health claims regulation (Article 4 of Regulation (EC) No 1924/2006)

#### **Council of Ministers**

**The next stage in the Codecision procedure is for the Council to continue its deliberations, to reach firstly ‘political agreement’, followed by a formal ‘common position’.**

**The Council working group is now meeting under the Belgian Presidency, which has stated a clear intention to achieve political agreement before the end of the year. Six working group meetings have been scheduled – two each in July, September and October.**

The Council Working Group will have first analysed the outcome of the Parliamentary vote. A paper from the EU Council Secretariat details the ‘Outcome of the European Parliament’s first reading’ and provides a summary of the Parliamentary debate.

The full paper also includes the text of the amendments adopted by the Parliament and the legislative resolution, and can be downloaded from the EU Council website at <http://tinyurl.com/28qxew>

The FSA has issued an update report covering a series of working group meetings held under the previous Spanish Presidency. The report adds little of real interest considering the number of meetings involved. A copy of the letter can be downloaded from <http://tinyurl.com/2992tk3>

The Spanish Presidency also initiated a ‘debate’ for a meeting of the Council of Ministers – the EPSCO meeting in June (Employment, Social Policy, Health and Consumer Affairs). The debate was in reality more a series of position statements, rather than a genuine debate, but the meeting was held in public and can be seen from the Council’s video-on-demand service at <http://tinyurl.com/27n3pb3>

The Presidency had published a discussion paper (reference 10273/10) to direct the debate to two specific areas where there is a significant divergence of view among member states.

- Legibility and specific font size
- Responsibilities of food operators along the food chain

The paper can be downloaded from <http://tinyurl.com/2dsekys>. The official press release report from the meeting includes a very brief summary of the discussion (page 18) – from <http://tinyurl.com/26t95e9>. The UK was represented at the meeting by Anne Milton MP Parliamentary Under Secretary of State for Public Health

#### **Future Progress**

**The chart over the page is an attempt to show the possible development of the Food Information Proposal through all the stages of the legislative process.**

For an explanation of the legislative procedure readers are referred to the Commission website at <http://tinyurl.com/34akf9d>, especially to sections ‘4 - Council first reading’ and ‘9 - Council common position’)

There are also further links to various other EU webpages in the chart over the page for anyone who may wish to have a greater understanding of the procedure

There is no time limit for completing any of the First Reading procedures. The ambition of the Belgian Presidency is to reach **Political Agreement** before the end of 2010. The Common Position would follow, typically within a few months

**COD/2008/0028:  
Provision of food  
information to consumers**

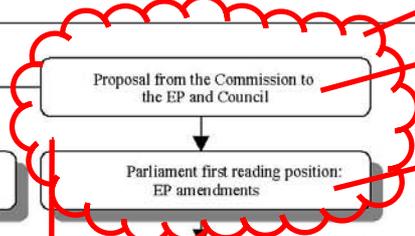
These are the two formal procedures that have been completed

**Annex F: Presentation of the ordinary legislative procedure (Article 294 TFEU)**

30 January 2008  
(COM(2008)0040)

EP First Reading  
16 June 2010

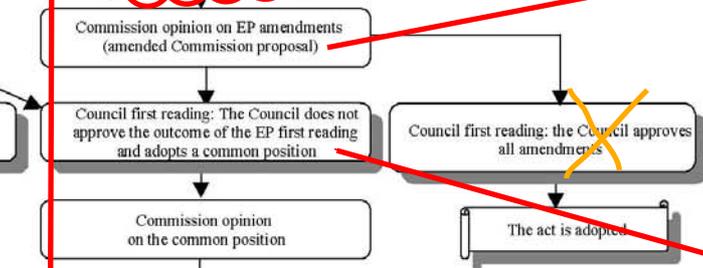
1st READING



An amended Commission Proposal (incorporating some of Parliament's amendments) is possible, but unlikely

We are now moving through the Council First Reading procedure. There are usually two distinct phases - **Political Agreement**, when all decisions have been finalised on the position to be adopted in contentious areas, followed by the **Common Position** in the form of the detailed legal text

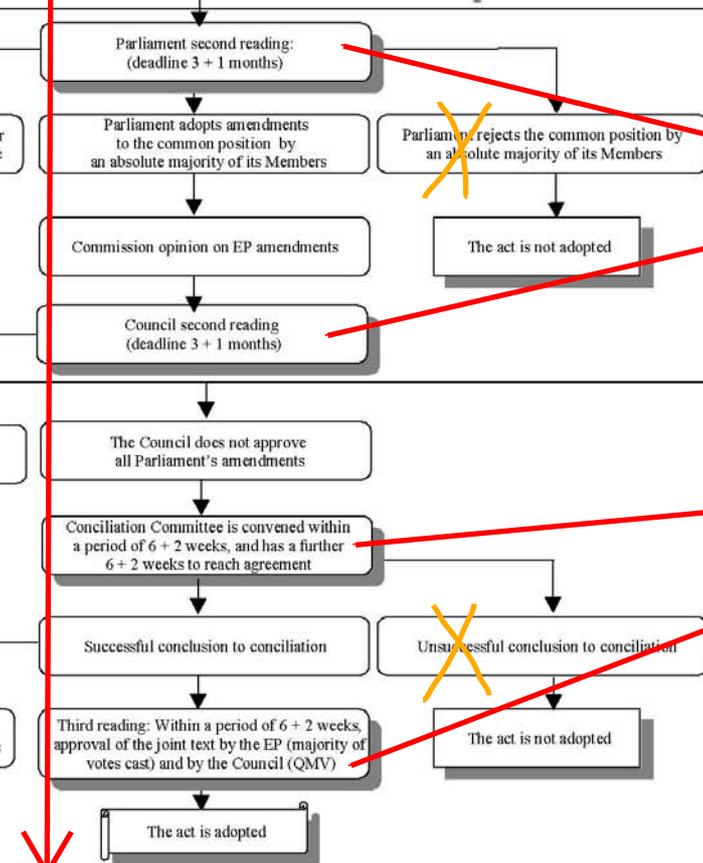
2nd READING



The Second Reading stage has strict time limits - the norm is 3 months for each of Parliament and Council, but these can each be extended to 4 months

There are strict time limits for completing 2nd and 3rd Reading stages

3rd READING



If a Third Reading stage proves necessary, there are again strict time limits - the norm is 6 weeks to reach agreement and a further 6 weeks for approval, although each of these can be extended to 8 weeks

Chart taken from 'Codecision and Conciliation - A Guide to how the Parliament co-legislates under the Treaty of Lisbon' (EP guide from [http://www.europarl.europa.eu/code/information/guide\\_en.pdf](http://www.europarl.europa.eu/code/information/guide_en.pdf))

**The likely route for this proposal is down the middle of this chart.** This shows the food information proposal moving through to a third reading stage, even though it is generally true that only a small minority of proposals do ever reach the third reading stage. For most proposals, there is agreement at first or second reading. **There are other possibilities, which could lead to earlier adoption (or rejection), as indicated above**

Also, the Council and the Parliament have the option to work together (and with the Commission), **outside the formal procedure outlined above**, to agree a **joint compromise text**, which can then be approved by each of Parliament and Council. This has become quite a common route for early adoption at first or second Reading. However, a spirit of compromise is necessary and this does not seem to be evident for this proposal.

**If this proposal does follow the full 3-readings route, a possible time scale is:**

- » Council 1st Reading, Political Agreement - December 2010
- » Council 1st Reading, Common Position - Spring 2011
- » Second reading Stage: 6 months (up to maximum 8 months)
- » Third Reading Stage: 12 weeks (up to maximum 16 weeks)

**Adoption of the proposal could therefore be envisaged 1st quarter 2012.**

This is followed by a period for formal signature and publication in the OJ - possibly a further 2-3 months, leading to mid 2012 for the Regulation entering into force (20 days after publication). Key requirements will only apply after a further 3 (or possibly 5) years

**Background on Co-decision procedure from:**

- » European Commission [http://ec.europa.eu/codecision/procedure/index\\_en.htm](http://ec.europa.eu/codecision/procedure/index_en.htm)
- » European Parliament [http://www.europarl.europa.eu/code/default\\_en.htm](http://www.europarl.europa.eu/code/default_en.htm)
- » European Council <http://consilium.europa.eu/showPage.aspx?id=435&lang=en> (Note that the Council's Co-Decision guide does not reflect changes introduced by the Lisbon Treaty, [http://consilium.europa.eu/uedocs/cmsUpload/code\\_EN.pdf](http://consilium.europa.eu/uedocs/cmsUpload/code_EN.pdf))

**Details of procedure from PreLex (Commission)** [http://ec.europa.eu/prelex/detail\\_dossier\\_real.cfm?CL=en&DosId=196686](http://ec.europa.eu/prelex/detail_dossier_real.cfm?CL=en&DosId=196686)  
**or Legislative Observatory (Parliament)** <http://www.europarl.europa.eu/oeil/FindByProcnum.do?lang=en&procnum=COD/2008/0028>

The chart shows a likely route for the food information proposal, moving through the full legislative procedure to a third reading stage – even though it is generally true that only a small minority of proposals do ever reach the third reading stage. For most proposals, there is agreement at first or second reading, and there are also other possibilities, which could lead to earlier adoption (or rejection)

Also, the Council and the Parliament do have the option to work together (with the Commission), outside the formal procedure outlined on the chart, to agree a joint compromise text (which can then be approved by each of Parliament and Council). This has become quite a common route for early adoption at first or second Reading. However, a spirit of compromise is necessary and this does not seem to be evident for this proposal.

If this proposal does follow the full procedure through to a third reading, a possible time scale is:

- **Council 1st Reading, Political Agreement - December 2010**
- **Council 1st Reading, Common Position - Spring 2011**
- **Second reading Stage: 6 months (up to maximum 8 months)**
- **Third Reading Stage: 12 weeks (up to max 16 weeks)**

Adoption of the proposal could therefore be envisaged 1st quarter 2012. This is followed by a period for formal signature and publication in the OJ - possibly a further 2-3 months, leading to mid 2012 for the Regulation entering into force (20 days after publication).

**Key requirements will only apply after a further 3 (or possibly 5) years**

### Defra

Following the changes to FSA responsibilities introduced by the coalition government, the lead responsibility for the UK in the Council of Ministers (and associated working groups) on the Food Information proposal has passed to Defra.

Consideration is also underway to identify elements from the UK's national Food Labelling Regulations that may be lost once the EU's Food Information Proposal is adopted and implemented (unless action is taken to maintain specific elements)

This exercise was started by the FSA, but again will also pass to Defra. A full stakeholder consultation can be expected in due course.

## **NICE – Prevention of cardiovascular disease at population level**

A consultation exercise was carried out late last year on draft guidance from NICE (National Institute for Health and Clinical Excellence) on 'Prevention of cardiovascular disease at population level'.

The final guidance has now been published and is available from the NICE website at <http://guidance.nice.org.uk/PH25>

The full package of information includes

- Full Guidance document
- Quick reference guide
- Costing report and Costing template
- Slide sets (and notes for presenters, to assist in dissemination of the guidance)

Also available is a large quantity of background information. Background papers that will be of interest include the following 'expert papers':

- 3 – salt
- 4 – commercial interests
- 6a – the co-op (and 6b appendix)
- 9 – trans fats
- 10 – saturated and unsaturated fats
- 12 – will CVD prevention widen inequalities?
- 13 – international perspectives
- 14 – food manufacturer's perspective (Greencore)

The draft guidance was subject to very substantial criticism, including for its lack of awareness of the many successful initiatives already underway in this area, and for reliance on a heavy handed regulatory 'solution' to perceived problems. It would seem that relatively little has changed in the finalised guidance.

The final guidance includes a series of recommendations, grouped under 24 headings. Twelve relate to policy areas, the others to practice:

Recommendations for policy relate to

- 1 – Salt
- 2 – Saturated fats
- 3 – Trans fats
- 4 – Marketing and promotions aimed at children and young people
- 5 – Commercial interests
- 7 – Health impact assessment (see also 22)
- 8 – Common agricultural policy
- 9 – Physically active travel (see also 21)
- 10 – Public sector catering guidelines (see also 19 and 20)
- 11 – Take-aways and other food outlets (see also 23 and 24)
- 12 – Monitoring

The most interesting comment following publication of the guidance came from the Department of Health (from the DH website):

NICE today published guidance on preventing cardiovascular disease. Responding, a Department of Health spokesperson said:

'The best way to prevent cardiovascular disease is for people to eat better and be more active. The NHS provides high quality cardiac care and there has been a reduction in cardiovascular deaths of about 50 per cent

over the last 15 years through better prevention and better treatment.

**'Today's recommendations are extensive and wide ranging but it is not practical to implement certain proposals in this guidance, for example on the mandatory use of traffic lights alongside GDA in food labelling. It is extremely important that work by NICE is methodologically robust and includes fully workable proposals.'**

## Local Government Regulation The new name for LACORS

LACORS has changed its business name from Local Authorities Coordinators of Regulatory Services to **Local Government Regulation**

This is part of a wider 'Getting Closer' initiative among local government organisations. The five organisations that come under the LGA (Local Government Association) umbrella are coming closer together to provide a more joined up service for local authorities across the country. The new approach is also seen as a way of both saving money and avoiding duplication of efforts.

Collectively the organisations will be known as the Local Government Group (LG Group), and individual organisation names will be:

- Local Government Association (stays the same)
- Local Government Employers (stays the same)
- Local Government Improvement and Development (formerly Improvement and Development Agency)
- Local Government Leadership (formerly Leadership Centre for Local Government)
- Local Government Regulation (formerly Local Authorities Coordinators of Regulatory Services - LACORS)

The organisations declare a shared ambition to make an outstanding contribution to the success of local government, working with and on behalf of councils to:

- lobby for changes in policy and legislation
- build a strong and positive reputation for local government
- support them and their partnerships to continuously improve and be innovative.

Local Government Regulation describes its operations in the following terms:

Local Government Regulation (LACORS), as part of the Local Government Group, is the local government central body responsible for overseeing local authority regulatory and related services in the UK. It is a local government central body created by the UK local authority associations which comprise the Local Government Association (LGA), Welsh Local Government Association (WLGA), Convention of Scottish Local Authorities (COSLA) and Northern Ireland Local Government Association (NILGA). Local Government Regulation is mainly funded from local government monies. In England and Wales money is 'top sliced' from the Revenue Support Grant.

Central to Local Government Regulations work is the promotion of quality regulation, development of policy and dissemination of comprehensive advice, guidance and good practice for local authority regulatory services. This is distributed through this website and via e-mail bulletins to heads of service and also specialist officers. Local Government Regulation is assisted in its work by a network of local authority advisers and recognised experts.

Local Government Regulation consults with advisers and stakeholders on a range of issues via its Policy Forums and Focus Groups. Representatives meet to discuss key strategic and policy issues affecting regulatory services to help focus Local Government Regulations work.

Local Government Regulation is accountable to its Board of Directors which is made up of senior elected members nominated by the four UK local authority Associations.

## TSE Roadmap 2

The European Commission has recently published 'TSE Roadmap 2'. The Commission says that the success of the European Union's efforts in combating Transmissible Spongiform Encephalopathies (TSEs), such as Bovine Spongiform Encephalopathy (BSE) in cattle or scrapie in sheep and goats, allows the EU to contemplate changes in

some of its rules. The European Commission has therefore adopted a Communication (to the European Parliament and the Council), which outlines areas where future possible changes to EU TSE-related measures could be made. The document – "**The TSE Road Map 2 – A strategy paper on Transmissible Spongiform Encephalopathies for 2010-2015**" – underlines that any amendment should

maintain the EU's high level of protection of human and animal health and of food safety and should be backed by solid science. The Road Map is intended to be a reflection paper that opens up dialogue on the issue

The Road Map identifies six areas where changes to the current TSE measures could be made in the future:

- Specified Risk Materials (SRMs – i.e. organs that could harbour BSE infectivity): The EU SRMs list could be aligned with the international standards of the World Organisation for Animal Health (OIE).
- The feed ban: A certain tolerance level of processed animal proteins (PAP) could be introduced; provisions banning the use of certain PAP for animals such as pigs, poultry and fish (i.e. non-ruminants) could be removed without lifting the prohibition on intra species recycling (e.g. poultry meal could be fed to pigs and pig meal to poultry but not pig meal to pigs).
- Surveillance: The monitoring system could be better targeted by increasing gradually the testing age limits, or through various testing methods.
- Scrapie eradication measures: These could be brought in line with the latest scientific information, which could mean – among other things – adapting measures for atypical scrapie if data confirms that this scrapie strain is not contagious or continuing to encourage genetic control of the disease in sheep through breeding programmes.
- Cohort culling: As the number of BSE-positive animals has dropped to zero in 2009 the systematic cohort culling of cattle could be stopped and animals could be sold for consumption provided they are tested with negative results before entering the food chain.
- Ante-mortem and post-mortem tests: If ante-mortem tests become available the testing of live animals could be an option. This could be particularly helpful for herd certification purposes vis-à-vis small ruminants.

The Commission says that its first TSE Roadmap, a reflection paper adopted in 2005, provided an outline of possible future changes to EU measures on TSEs in the short, medium and long-term. The majority of short and medium term actions envisaged in the first TSE Roadmap

have been achieved and the positive trend already observed in 2005 in the BSE epidemic has continued since then.

The Commission's goal for the coming years is to continue the review of the measures while assuring the highest level of food safety. Amendments to the TSE rules are, and will continue to be, taken following a step-by-step approach supported by a solid scientific basis provided by the European Food Safety Authority (EFSA).

In setting its future strategy, the Commission says that it is also obliged not to lose sight of other threats to animal and public health, such as Salmonella and Antimicrobial Resistance. The Commission, based on existing scientific evidence, believes there is a need to better prioritise actions taking into consideration the impact the various diseases have on public health. "The encouraging trends in relation to BSE merit a considered review of the opportunities to focus on these other threats," concludes the Commission's Communication to the EP and Council.

'TSE Roadmap 2' can be found on the DG Sanco website, together with an associated Staff Working Document, at <http://tinyurl.com/2v7mooc>, or can be downloaded directly as <http://tinyurl.com/35krztk>

**The Food Standards Agency, Defra and the Welsh Assembly Government have jointly invited stakeholders to share their views on the Commission's 'TSE Roadmap 2' and the accompanying Commission staff working document.** The FSA notes that although the roadmap contains no specific proposals or timetable for change, it identifies areas where changes could be made to TSE measures in the future.

Details are available from the FSA website at <http://tinyurl.com/33t2dpf>, or from the Defra website at <http://tinyurl.com/36c6b7d>. The Defra webpage provides a link to the informal consultation paper, which can also be downloaded directly as <http://tinyurl.com/2unr2qc>.

The closing date for responses to the informal consultation is 25 August.

The response to this informal consultation will inform UK policy on TSE measures and will be used specifically to inform the response to a short questionnaire provided by the Presidency of the European Council.

## Definition of "nanomaterial" Public consultation

The European Commission requested the Scientific Committee on Emerging and Newly Identified Health Risks (SCENIHR) to provide advice on the essential elements of a **science-based working definition of "nanomaterials"** and, specifically, to identify **the most appropriate metrics to define materials at nanoscale**, taking into account reported size ranges and other relevant characteristics and corresponding metrics, characteristics, physico-chemical properties and thresholds. **The Committee duly approved an opinion (as a basis for further consultation) in July.**

In line with its procedures for stakeholder dialogue, (published in September 2007), **the European Commission has now launched a public consultation on that pre-consultation opinion.** Full details are available from <http://tinyurl.com/3amj273>. The Committee's opinion can also be downloaded directly as <http://tinyurl.com/397a86f>

### Background

The services of the European Commission need to elaborate a working definition for the term

“nanomaterial” to ensure the consistency of forthcoming regulatory developments, to guide, as appropriate, the effective implementation of existing regulation and to contribute to international work and dialogue on nanotechnology definitions.

In order to prepare a science-based definition of nanomaterials, the services of the European Commission need clarification on the size ranges and other relevant characteristics and corresponding metrics reported in the scientific literature, the types of physical and chemical properties particular to nanomaterials, the relevant thresholds, as well as the most appropriate metrics to express such thresholds.

The Commission notes that the SCENIHR adopted a Scientific Opinion on “The scientific aspects of the existing and proposed definitions relating to products of nanoscience and nanotechnologies” at the 21st plenary meeting on 29 November 2007 (available from <http://tinyurl.com/386qslu>).

Also, both the SCENIHR and the predecessor to the Scientific Committee on Consumer Safety (SCCS) have provided further advice on the definitions of the term nanomaterial and other related terms in their opinions (download from <http://tinyurl.com/2u8rtxq> and from <http://tinyurl.com/33u6qf7>)

Moreover, the European Food Safety Authority used the terms and definitions suggested by the SCENIHR in the opinion on “The Potential Risks Arising from Nanoscience and Nanotechnologies on Food and Feed Safety” on 10

February 2009 (detail from <http://tinyurl.com/39uujm9>)

### Consultation

The Commission says that the development of the policy and regulatory activities on nanotechnologies requires the rapid establishment of a working definition of nanomaterials.

**All interested parties are invited to submit their comments and proposals on the Committee’s preliminary opinion via a dedicated website at <http://tinyurl.com/36v5pyj>**

**The deadline for submission of comments is 15 September.**

A key issue addressed in the opinion is the arbitrary nature of the nanoscale which is currently commonly assumed to range from 1 to 100 nanometres. SCENIHR points to the absence of a scientific basis for the scale’s upper limit of 100 nanometres. Since an increasing number of products contain components in this size range, a clear definition is important to avoid problems within a regulatory setting.

Once finalised, this Opinion will provide advice on the essential scientific elements of a working definition for the term “nanomaterial” for regulatory purposes.

More information on SCENIHR and the European Commission’s other independent Scientific Committees can be found at <http://tinyurl.com/355vau6>

## Groceries Code Adjudicator

The Government has published its response following the consultation to take forward the establishment of a body to monitor and enforce the Groceries Supply Code of Practice (GSCOP). **The Department for Business will now bring forward new legislation in order to set up the Groceries Code Adjudicator (GCA), which will reside within the Office of Fair Trading (OFT).**

The GCA will have the power to receive complaints about the way supermarkets interact with their primary suppliers from anyone in the supply chain at home or overseas, and deal with them anonymously. This includes farmers who may not directly supply the large supermarkets. Although non-governmental organisations, trade associations and other organisations cannot lodge complaints directly, they are still said to have a useful role to play in offering advice and assistance to their stakeholders.

**The proposals to establish the GCA are set out in the consultation response and will require primary legislation. The Department for Business will be seeking approval from the Parliamentary Business and Legislation Committee to publish a draft Bill later this year with the intention of bringing forward a Bill in the**

### second Session.

The Groceries Supply Code of Practice has been in place since 4 February 2010 and was introduced by the Competition Commission.

The consultation document and the government’s response can be found at <http://tinyurl.com/33z54fa>

Although the GCA will be based within the OFT, it will remain independent of and separate to the OFT’s Executive. This means the decisional route will be independent of the OFT’s normal activities and it will not be answerable to the OFT’s Board.

The Government will call the body the Groceries Code Adjudicator not an “Ombudsman”. It says that an Ombudsman normally provides effective redress mechanisms for individual consumers and citizens but this body is concerned with business-to-business relationships within the groceries supply chain.

Funding for the GCA will come from supermarkets and will be based on turnover and compliance with the GSCOP.

## New website for UK legislation

The National Archives have announced the launch of a new legislation website which is intended to give clearer, faster and easier free access to legislation ('from the Magna Carta to the latest statutory instruments').

The new website, [www.legislation.gov.uk](http://www.legislation.gov.uk), is now live and replaces two existing websites – The Office of Public Sector Information and Statute Law Database. It brings together the legislative content currently held on the two websites, to provide a single integrated service. The OPSI and SLD websites are in the process of being decommissioned with users re-directed to this new service.

Legislation.gov.uk is now the official place of publication for newly enacted legislation. The aim continues to be to publish legislation on the website simultaneously with, or at least within 24 hours of, its publication in printed form. The website carries most types of legislation and accompanying explanatory documents. The new website

contains 6.5 million PDF documents.

For primary legislation (Acts of Parliament etc), there is access to both the original version of any piece of UK legislation (covering all jurisdictions – England, Scotland, Wales and Northern Ireland) and details of any amendments.

For secondary legislation (Statutory Instruments, Statutory Rules, etc) the website offers only the legislation as originally made and enacted. It does not offer the possibility of seeing the effect of later amendments.

The website claims that there are no secondary legislation items available before 1988 as 'they are not available in a web-publishable format'. For UK Statutory Instruments, the website does in fact seem to hold a complete dataset for 1987 (as did the OPSI website), but there is no coverage for earlier items.

## IUU Catch Certification

The European Commission has issued a "clarification" regarding the weights that must be included in catch certificates produced under the EU's IUU Regulation.

**The weight that is included in a catch certificate must include only that portion of a catch that is making up a specific export consignment to the EU.**

Many catch certificates are being validated for the total quantity of fish landed – which many in the industry believed was in line with advice given during early discussions when the Regulation was being developed.

The Commission has however informed third countries that they must only validate catch certificates which use the consigned weight of the fish – that is the weight of fish actually imported rather than the total catch landed.

**Details are contained in an Addendum to the Commission's Handbook**

- Addendum to the handbook on the practical application of the IUU Regulation (European Commission) – from <http://tinyurl.com/382oq4n>

The addendum also includes a number of other amendments and additions to the original handbook.

**There is also a short Commission Notice dealing specifically with the catch certificate issue**

- IUU Regulation – Weight in the catch certificate – Product code (Commission notice) – from <http://tinyurl.com/37ycg6d>

**Defra has also produced detailed guidance**

- IUU Regulation guidance note: Weights and product codes to include in catch certificates (Defra July 2010) – from <http://tinyurl.com/346ewq5>

### 15 August is a key date

According to the Commission Notice:

**From 15 August 2010, products accompanied by a catch certificate with an incorrect weight will not be authorised to enter the EU market.** Clear instructions have been given to EU Member States on this point as this situation can no longer be accepted. In practical terms, it means that all the catch certificates **validated after this date** should mention the weight of the consignment to be exported and not the total catch. Otherwise importation into the EU of these consignments will not be authorised

Defra uses a slightly more measured form of words:

**Products accompanied by catch certificates which include incorrect weights, and which are validated after 15 August 2010 risk not being permitted entry the EU market.**

There are of course many situations where it cannot be known at the time of landing how a total catch will eventually be sold and utilised – making it impossible to complete a validated catch certificate at the time of landing.

### Exceptions

Two situations are described where catch certificates do NOT need to reflect the consigned weight:

**(a) Where the products are processed in a third country other than the flag state** (e.g. Country A fish processed in Country B). In this situation an Annex IV processing statement needs to be completed by the processing plant and validated by the competent authorities in the processing country. The Annex IV statement will identify the part of the catch that has

been processed to form the exported consignment and links this to the corresponding catch certificate. It is acceptable in this case for the accompanying catch certificate(s) to relate to the entire quantity of fish that entered the processing country, as the Annex IV statement provides the link between the exported consignment and the catch certificate(s).

**(b) Where a bulk consignment of fish is stored in a customs warehouse in the EU.** In this situation, when part of the bulk consignment leaves the customs warehouse it can be accompanied by a copy of the catch certificate for the entire quantity, plus supporting documentation (e.g. customs documents, invoices, transport or insurance documents) to provide the link between the original quantity that entered the customs warehouse and the part to be imported into the EU.

#### Originals of catch certificates

The new Defra guidance also clarifies that original catch certificates should be submitted to UK enforcement Authorities.

The guidance also notes that it is, however, acceptable for electronic versions (eg pdf, fax) to be submitted, as long as they are followed up by the original document. To avoid delays, IUU checks and clearance can be undertaken on the basis of electronic versions.

**The only circumstances where copy certificates are acceptable are as above:**

(a) Where the products are processed in a third country other than the flag state

(b) Where a bulk consignment of fish is stored in a customs warehouse in the EU.

#### Other IUU Items

(a) The Commission has published in the Official Journal a list of **vessels identified as participating in IUU fishing activities**. The vessels are all taken from existing lists adopted by regional fisheries management organisations. As yet, there are no new vessels involved in IUU activities that have been specifically identified by the Commission

- Commission Regulation (EU) No 468/2010 of 28 May 2010 establishing the EU list of vessels engaged in illegal, unreported and unregulated fishing – download from <http://tinyurl.com/3253tgx>

(b) The Commission has published in the Official Journal an **'official' list of flag state countries** where agreement is in place concerning competent authorities. The list was published on 14 July (OJ C190/14).

- Information from the European Commission, published in accordance with Article 22(2) of Council Regulation (EC) No 1005/2008, concerning flag State notifications (List of States and their competent authorities), according to Article 20(1), (2), (3), and Annex III to Regulation (EC) No 1005/2008 (2010/C 190/06) – download from <http://tinyurl.com/39bkexy>

(c) The Commission also continues to publish the 'informal' web list of **authorised flag state countries** which is updated periodically. The latest web list is dated 28 July, with the inclusion of Bangladesh as an approved flag state.

- IUU – Information on states and their competent authorities notified under article 20(1) and (2) - as of 28 July 2010 – download from <http://tinyurl.com/35ghsc9>

(d) The Commission has published a notice clarifying the situation regarding **EU catch certificates** when an operator in an EU Member State buys catches taken by vessels from other EU Member States. The notice explains that trade between operators within the EU is, under EU legislation, considered intra-EU trade. The term exportation is only relevant when products leave the territory of the EU.

EU catch certificates are not required for intra-EU trade. EU catch certificates are only required when:

(a) the product is exported and then re-imported into the EU (e.g. after processing in a third country); or

(b) when the third country systematically requires EU catch certificates on entry to that country. The list of such countries can be found published on the Commission's website (download from <http://tinyurl.com/3ydy7a>)

- IUU Regulation – procedures in relation to intra-EU trade and subsequent exports of EU products for processing in a third country (download from <http://tinyurl.com/33tojue>)

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**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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