Food Standards Agency (FSA) Non-qualifying Regulatory Provisions (NQRP) Summary Report

Business Impact Target Reporting Period Covered: 8 May 2015 – 31 May 2017

Excluded Category	Summary of measure(s), including any impact data where available*
A – EU and International	In October 2016 the FSA brought in a provision for the execution and enforcement of Commission Implementing Regulation (EU) No. 2015/1375, laying down specific rules on official controls for Trichinella in meat. The provision was implemented through the Food Safety and Hygiene (England) (Amendment) Regulations 2016. On 1 October 2016 the FSA implemented its improved identification verification procedures for wild or semi-wild equine animals (equidae) presented for slaughter for human consumption. The procedures resulted directly to the Equine Passport Regulations[1] that came into force on 1 January 2016. No significant impacts to business were identified from the procedures (assessment attached at Annex A) In November 2015 The FSA revised its Wild Game Guide to take account of changes that were made to the directly applicable EU regulations that entered into force in 2014 regarding the export of unskinned bodies of large wild game animals. The Guidance update does not go beyond the requirements of the directly applicable EU legislation, and is therefore a Non-Qualifying Regulatory Provision (further detail is provided in an initial assessment that was undertaken by the policy team and is attached at Annex B)
L1 – Casework	The following routine activities are carried out by the FSA day-to-day and will vary in both scale and magnitude on a case by case basis. The activities largely relate to business non-compliance or suspected non-compliance and do not represent any change burden on business. • The FSA leads on the 24/7 government response to food and feed incidents (*any event where, based on the information available, there are concerns about actual or suspected threats to the safety, quality or integrity of food and/or feed that could require intervention to protect consumers' interests*) and co-ordinates the management of all food/feed incidents in England, Wales and Northern Ireland, including liaison with national and international stakeholders. FSA also supports investigations of other government departments, for example supporting Public Health colleagues in foodborne

[1] http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32015R0262&qid=1466294639816&from=EN

	outbreak investigations. FSA ensures that robust plans and procedures in place to respond to incidents e.g. food and feed; CBR attack via the food or feed chain. • The FSA National Food Crime Unit (NFCU) gathers, analyses and disseminates intelligence in relation to fraud and other offences of dishonesty within food supply chains. • The FSA carries out criminal investigations into legislative non-compliance at FSA approved establishments. Where necessary, it takes forward prosecutions or refers files to the Crown Prosecution Service. • FSA policy colleagues routinely respond to business enquiries and the FSA has a dedicated stakeholder helpline that deal with generic enquiries or direct callers to the relevant policy lead.
L2 – Education, communications and promotion	The FSA uses a wide range of social media techniques to inform, educate and influence behaviours on a range of issues intended to support consumer protection and their other interests. A list of FSA campaigns can be found on the FSA website https://www.food.gov.uk/news-updates/campaigns. The FSA produces a range of factsheets and information leaflets that are published on its website https://www.food.gov.uk/about-us/publications. The FSA undertook a routine update of its Safer Food Better Business (SFBB) https://www.food.gov.uk/business-industry/sfbb packs in 2016. SFBB packs are a freely available resource for business choosing to utilise them. Routine updates are necessary to ensure that information such as food law requirements are kept up-to-date. This particular update also introduced some cosmetic changes to the style and layout of the SFBB packs (e.g. implemented colour changes to reduce printing costs etc.). The FSA routinely communicates with business on a range of subjects through industry forums, working groups, roundtable discussions and 1-2-1 meetings as well as written correspondence with FSA approved establishments on matters that directly affect them. The FSA consults stakeholders on all changes to UK food law and routinely consults with stakeholders when developing its regulatory approach and other policy changes that may impact stakeholders.
L3 – Activity related to policy development	A significant amount of FSA activity is directly related to policy development, including developing agreed UK lines for EU negotiation and influencing the EU Commission and other Member States during the negotiation process, developing UK legislation to provide enforcement provisions for directly applicable EU regulations and monitoring and reviewing business compliance as well as the delivery of official controls and enforcement to ensure the

	effectiveness of the UK Regulatory approach to food law. The FSA is currently focused on two key priority areas: preparations for exiting the EU and the FSA's Regulating Our Future programme – a fundamental review of whole food law regulatory approach throughout England, Wales and Northern Ireland.
L4 – Changes to management of regulator	In November 2016 the FSA introduced a change of approach to the approval process for shellfish purification establishments by discontinuing contracted technical expertise to local authorities from CEFAS during the approval and routine inspection process of purification establishments in England and Wales. The change will have no direct impact for business as the shellfish industry are not charged for their approval or routine official control and will continue to be approved by their local authority and to receive local authority interventions at the same frequency as before.

Annex A

Non-Qualifying Regulatory Provision Assessment

Title of proposal	Improved identification verification procedures for wild or semi-wild equine animals (equidae) presented for slaughter for human consumption
Lead Regulator	FSA
Contact for enquiries	Jacqueline Rodriguez Vigo

Date of assessment	12 August 2016
Commencement date	1 October 2016
Origin	EU
Does this include implementation of a Cutting Red Tape review?	No
Which areas of the UK will be affected?	England and Wales

Background

On 1st January 2016 the Equine Passport Regulations[2] (directly applicable EU Regulation) came into force. The Regulation requires that every foal must be identified no later than 12 months following the date of birth. Identification documents, in the form of a passport, must accompany equidae transported to a slaughterhouse.

Derogations from the general obligation allow for certain equidae living under wild or semi-wild conditions in certain designated areas – Dartmoor, Exmoor and the New Forest are designated areas in England containing defined populations of horses living under wild or semi-wild conditions that do not compulsory require to be identified with passports and microchips for as long as they are not moved from these areas. In Wales the designated areas include the Cymdeithas Merlod y Carneddau and The Hill Pony Improvement Society of Wales.

Derogations also allow equidae for which passports have not been issued to be transported directly from the holding of birth to the slaughterhouse provided certain criterion are met, including the requirement that 'equidae are less than 12 months old and have visible dental stars of the temporary lateral incisors'

[2] http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32015R0262&qid=1466294639816&from=EN

Concerns over potential risks to public health from the consumption of meat originated from these equidae has been raised in relation to the use of contraceptive drugs to manage populations, which are not licensed for use in horses in the UK. [3]

We are aware of the fact that some of the contraceptive drugs used to dart these populations (Improvac) has 0 withdrawal period in pigs (Improvac is intended for pigs and used to control boar taint and behaviour modification in entire male pigs) but no tests have been carried out to determine their withdrawal period for horses and we do not know if this is the only drug used as contraceptive to manage these equine populations.

Members of the public have also reported to the FSA that the derogations are being abused with ponies of all ages, and some originating outside of the designated areas, being transported fraudulently to slaughterhouses.

Current FSA identification verification procedures on ponies transported directly for slaughter from the designated areas and under derogation are insufficiently thorough to identify such abuse, presenting the risk of potentially unsafe meat entering the human food chain.

Brief outline of proposed new or amended regulatory activity

To introduce necessary controls to verify that only animals correctly identified are accepted for slaughter for human consumption.

From 1 October 2016 animals presented for slaughter under the derogation wild/semi-wild equidae (with no passport), will be subject to 100% dentition checks at head post mortem inspection to verify the animal is less than 12 months of age.

Failure to comply with any of the requirements detailed above will results in the carcass being rejected from the human food chain and the body and all parts will be disposed of in accordance with the animal by-products regulations.

Which type of business will be affected? How many are estimated to be affected?

Slaughter houses that process equidae. At the time this assessment is made, there are a total of 5 approved slaughterhouses in the England approved for the slaughter of horses. There are none in Wales.

[3] http://www.bbc.co.uk/news/uk-wales-south-east-wales-34054361 and http://www.dailymail.co.uk/news/article-2925700/Rifle-wielding-conservationist-shoots-Dartmoor-hill-ponies-gas-fired-contraceptive-darts-stop-overbreeding.html

Please set out the impact to business clearly with a breakdown of costs and benefits

For the period April 2015-January 2016 the total number of horses processed in the UK was 3,403. Of these, 406 (11.9%) were equidae declared originating from one of the designated areas and kept under derogation. The majority of these ponies, 352 (86.6%) in total, were processed through a single slaughterhouse.

Implementation of the verification check, a simple visual inspection of the teeth at the time the Meat Hygiene Inspectors conducts post mortem inspection of the head, is estimated to require an additional 2 minutes per animal.

The Meat Hygiene Inspectors carrying out the verification are employed by the FSA and the cost of the additional checks will not be charged back to food business operators as charged separately to Defra under service level agreement for work carried out for equine identification checks. Familiarisation time with the new requirements and training to carry out the additional checks will be paid for by the FSA and charges will not be passed on to industry.

The additional time required to undertake verification will not affect the processing speeds at slaughterhouses as this is carried out separately and does not interfere with further processing and inspection of the carcass.

We are aware that some food business operators slaughter some of these ponies to supply meat to zoos. The fact that ponies failing the dentition checks will be disposed of in accordance with the animal by-products regulations will not prevent those carcasses from being supplied to zoos but will prevent them from entering the human food chain.

This change in regulatory approach is estimated to have zero costs to business.

Regulator Assessment under the Business Impact Target (BIT)

This measure has been assessed as a Non Qualifying Regulatory Provision (NQRP) under the BIT as the measure implements new or changed obligations arising from European Union Regulations, Decisions and Directives, and other changes to international commitments and obligations.

Annex B

STANDARD ASSESSMENT TOOL FOR NEW OR MATERIAL CHANGES TO FSA GUIDANCE

[A pre-requisite for using this form is that guidance is written in plain English, with technical jargon used only for guidance intended for technical audiences]

1. Guidance Title:	The Wild Game Guide (WGG)

2. Is Guidance:	**New?**	No	**Amended?**	Yes

3. Purpose of Guidance:	To provide UK food businesses and people who hunt or shoot wild game and supply it in-fur or in-feather or as small quantities of wild game meat with clear guidance to the requirements of the relevant parts of the EU food hygiene and domestic legislation. The requirements intended to assure the safety of wild game supplied for human consumption in the UK, the EU or elsewhere are set out in Regulation (EC) 852/2004 and Regulation (EC) 853/2004 (the EU Food Hygiene Regulations). However, the requirements differ depending on how the game is supplied. The WGG explains the rules that apply in the different situations in which wild game may be supplied for human consumption.

4. Rationale for Intervention:	The guidance needed to be updated to take account of changes that were made to the directly applicable EU regulations that entered into force in 2014 regarding the export of unskinned bodies of large wild game animals.

Is guidance required for new or amended legislation?				Yes
EU?	**X**	**Domestic?**		http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1489064471778&uri=CELEX:02004R0853-20160401

5. Does the guidance go beyond the requirements of the legislation?*	No
If yes, briefly explain/detail	

6. Does the guidance introduce any new requirements on business (including information requests, mandatory forms etc.) not directly required in law?*	No
The new requirement was introduced by Commission Regulations 633/2014 and 636/2014; Regulation 633/2014 amends Regulations 853/2004 and 854/2004 and Regulation 636/2014 provides a model certificate for the trade in unskinned large wild game. The new rules require certification by an Official Veterinarian (OV) of bodies of unskinned large wild game animals which are intended to be consigned to an Approved Game Handling Establishment (AGHE) in another Member State. The OV must certify that the bodies of the animals meet certain requirements of Regulation 853/2004 and accompanied by appropriate declaration by a trained person who examined the animals after they were killed. In order to avoid a disproportionate administrative burden, Regulation 633/2014 allows for an alternative approach to be taken when the AGHE, closest to the hunting area, is in another Member State. Transport to the AGHE need not be accompanied by the aforementioned certificate but by the declaration of the trained person (taking into account the animal health status of the Member State of origin).	

7. Intended audience?	**Business**	Yes	**Local Authority (LA)**	Yes

8. If LA, is guidance intended to change their regulatory approach or otherwise impact on business?*	No
N/A – the update reflects changes to requirements on business and the provision of Export Health Certificates for this trade is not fulfilled by LAs.	

9. If Business, what does the sector look like?
There are a number of wild game handling establishments as well as large organised hunts and other activities that operate in this sector. However the measure is primarily aimed at individual hunters, as the flexibilities that allow this type of trade would not apply to approved establishments or large scale operation. It is therefore difficult to evidence the scale of the sector affected by the measure due to the nature of the activities carried out – i.e. largely local, small scale and often irregular activities, for which a physical establishment is not necessary,,

10. What level of employee will be responsible for familiarisation of the guidance?
The measure is primarily aimed at individual hunters and therefore will be the responsibility of the hunter to familiarise themselves with the requirement if they wish to supply large wild game in fur or feathers to AGHEs in other Members States.

11. Average wage rate identified?	£9.38ph
uprated by 20% to account for overheads in line with SCM methodology[4]	£11.26ph
It was difficult to identify an immediately comparable profession to a hunter, but looking across a number of similar agricultural professionals revealed very similar annual salary hourly earnings. We have therefore applied the ASHE wage rate for Skilled Agriculture and Related Trades as the most closely relevant comparative to the activities of a hunter.	

12. What is the guidance total word count?	8,000
13. For revised guidance, what % (approx.) has been changed?	3%
The changes necessary to update the guidance, although not cosmetic, were extremely minimal and focused within a single section of the guide.	

14. Level of complexity for intended audience	**Low**

15. Any other factors requiring consideration to assess the guidance impact?*
Operational colleagues in England, Wales and NI (as well as Food Standards Scotland) have confirmed that no trade in unskinned large wild game has taken place between the UK and EU Member States.

* If 'Yes' to Questions 6, 8, r 15 please quantify the assessment of the impact	
See Q10. Following consultation on the change introduced by Reg 633/2014, the FSA's assessment was that the new requirement was unlikely to have any impact on UK businesses as there is no known activity taking place. Getting reliable information about the scale of the wild game industry is very difficult and although there may be a very small number of individuals who may have been affected by this new legislation, identifying who they are and reaching them directly would take a disproportionate level of effort. The revision does not go beyond the directly applicable EU legislative requirements, and therefore is a Non-Qualifying Regulatory Provision.	£0.00

[4] SCM methodology http://www.berr.gov.uk/files/file44503.pdf