Queensland

Food Production (Safety) Amendment Regulation (No. 2) 2004

Regulatory Impact Statement for SL 2004 No. 320

made under the

Food Production (Safety) Act 2000

Introduction

This Regulatory Impact Statement (***RIS***) outlines a proposal to amend the *Food Production (Safety) Regulation 2002* (the ***FPSR***) to include food safety requirements for eggs and egg products produced in Queensland "The Food Safety Scheme for Eggs and Egg Products".

The development of significant subordinate legislation in Queensland requires the preparation of a RIS in accordance with the *Statutory Instruments Act 1992*. The RIS must be consistent with all applicable legislative requirements and protocols.[1]

The purpose of a RIS is to—

- explain to the community the nature and extent of the problem to be addressed
- provide an outline of the rules of a preferred option to address the problem and their expected effect
- provide a statement of alternatives to the regulation

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1 These requirements are listed in Appendix 1—Consistency with legislative requirements and protocols.

- set out a statement of the benefits and costs associated with the identified alternatives
- provide a statement as to why the identified alternatives are not preferred.

Also, the Queensland Government is a party to the Competition Principles Agreement agreed to by the Council of Australian Governments (***COAG***) in 1995 (amended in 2000). The guiding principle[2] of this agreement is that legislation should not restrict competition unless it can be demonstrated that—

- the benefits of the restriction to the community as a whole outweigh the costs; and
- the objectives of the legislation can only be achieved by restricting competition.

In keeping with this agreement, this RIS also addresses these issues. The Queensland Government invites you to participate in the development of the proposed regulation by commenting on any of the information presented in the RIS.

Background

The *Food Production (Safety) Act 2000* (***FPS Act***) was recently implemented by the Queensland Government as part of a new regulatory system for managing food safety. The FPS Act provides a mechanism to develop and implement co regulatory preventative food safety regimes, called Food Safety Schemes (***FSS***), in order to minimise food safety risk associated with the production of primary produce. Such an approach is considered international best practice and is consistent with the recommendations of the recent Commonwealth Review of Food Regulation (1997-1998).

The FPS Act established Safe Food Production Queensland (***SFPQ***) and tasked it with developing and implementing the Food Safety Schemes. The first subordinate legislation to the FPS Act, the *Food Production (Safety) Regulation 2002* (***FPS Regulation***) was introduced on January 1st 2003. While this Regulation prescribed the

2 Clause 5 of the Competition Principles Agreement

Food Safety Scheme for Meat and the Food Safety Scheme for Dairy Produce, it also set-up a template that, with minor alterations, could be applicable to address food safety management in other areas of primary production.

It is the position of the Queensland Department of Health (QHealth) that the egg industry is the highest priority of the currently unregulated primary production sectors requiring regulation via a FSS. This is based on the number of egg related food-borne illness outbreaks in recent years in Queensland. In the past 7 years, there have been at least 12 outbreaks of food borne illness in Queensland related to eggs and egg products resulting in 796 cases of illness, 81 hospitalisations and 2 deaths.[3] This data is regarded as an under-estimate of the level of food borne illness related to eggs and egg products, as less than 5% of food borne illness cases are actually reported in formal notifications. On this basis QHealth has advocated strongly for the introduction of risk-based food safety regulation. SFPQ strongly concurs with QHealth's opinion and position on this matter.

In order to manage this significant food safety issue it is now proposed to amend the FPS Regulation to include the Food Safety Scheme for Eggs and Egg Products. The implementation of this scheme is designed to work in conjunction with the Food Act 1981 to achieve seamless through-chain regulatory management of food safety of eggs and egg products in Queensland. This approach will be based on an assessment of risk in the industry and will focus on high risk product/activities, targeting the most effective point of insertion for food safety control measures.

The scope of the proposed Food Safety Scheme for Eggs and Egg Products is outlined under the heading "Legislative Intent" (page 9).

3 See Appendix 3—*Salmonellosis* outbreaks associated with eggs in Queensland 1996-2003

Proposed legislation

Authorising Law

The requirements of the Food Safety Scheme for Eggs and Egg Products fall within the objectives of the FPS Act. The relevant objectives set out in Section 3 of the FPS Act are—

- to ensure that the production of primary produce is carried out in a way that makes the primary produce fit for human or animal consumption
- to provide for food safety measures for the production of primary produce consistent with what is being proposed in other State laws relating to food safety.

The amended regulation will introduce new arrangements to reflect the recently agreed national requirements for food safety. The proposed regulation is risk- based and when the food safety risks warrant, the Scheme will provide for accreditation where business is engaged in the production, transportation and processing of eggs and egg products. The proposed Scheme dove-tails seamlessly with QHealth's responsibilities, and continues the Governments co-regulatory approach to food safety. Compliance with the regulations will require each accreditation holder to develop their own Food Safety Programs. Where appropriate, these programs will include critical limits for each hazard and effective preventative measures that can be used by industry to control or eliminate hazards and to produce safe food on a consistent basis.

Policy objectives

The objective of the proposed regulation amendments are listed below.

The overarching policy objectives of the proposed legislation

- To reduce the incidence of, and potential for, food borne illness from eggs and egg products.
- To provide a framework for the rapid management of emerging agents of human food-borne illness significance associated with the primary production of eggs and egg products and for the

implementation of National Food Safety Standards where appropriate.

- To provide a framework to optimise the cost-benefit of administration and monitoring of food safety initiatives for eggs and egg products.

How these policy objectives will be addressed

By—

- applying the general food safety requirements of the *Food Production (Safety) Regulation 2002* to the primary production of eggs and egg products
- providing a mechanism to identify and trace eggs and egg products throughout the supply chain
- managing the supply of cracked and visibly dirty eggs and the supply of unpasteurised egg pulp (e.g. egg must be supplied with their shell's free from visible cracks, faecal matter, soil or other foreign matter)
- prescribing a method whereby egg industry participants may group different activities at different sites under a single Processor food safety program.
- referencing National Food Safety Standards as compulsory requirements where appropriate.

The operational strategy proposed to ensure the objectives are met

By—

- mandating minimum effective food safety arrangements (mandatory "Food Safety Programs") for participants in the egg industry (which includes producers of eggs and egg products) and ensuring acceptable, rigorous, monitoring of these arrangements are in place.
- implementing a method whereby egg industry participants may group different activities at different sites under a single Processor food safety program.

- overseeing monitoring of food safety arrangements for the first twelve months directly by SFPQ and offering the option to move to private providers, after the initial twelve month period.
- implementing the requirements of the Food Standards Code in particular 1.6.1, 1.6.2 and 2.2.2, 3.2.2 and 3.2.3 where applicable.
- mandating specific requirements for the handling and testing of unpasteurised pulp.

Producers (growers) of eggs would have two options for supplying eggs or egg products under the proposed Food Safety Scheme. In the first instance a producer could implement a food safety program and be an accredited 'Producer' in its own right. Alternatively, the producer could enter into a formal sole-supply arrangement with a Processor under a 'Preferred Supplier Arrangement' and operate to the Processor's food safety program. Under this 'Preferred Supplier Arrangement' the producer would not be required to hold its own food safety program or be accredited with SFPQ. However as the producer would be part of the Processors food safety program it would be required to operate to the conditions of Processors accreditation and would not be able to supply to anyone but the Processor.

At the same time, the regulation proposes to minimise the cost of regulatory activities to the egg industry, and the economy as a whole, by ensuring that the regulatory system imposed will be straightforward for industry to apply, equitable, and consistent with the requirements being considered by other States. By referencing National Standards the need for detail and high level of prescription in the regulation is removed. Compliance with the regulation is required of all businesses and flexibility is built into the Scheme to allow a flexible approach to meeting regulatory requirements.

Legislative intent

The intent of the proposed legislation is to amend the *Food Production (Safety) Regulation 2002* (***FPS Regulation***). The FPS Regulation currently prescribes the Food Safety Scheme for Meat and the Food Safety Scheme for Dairy Produce. It was written to include a general food safety section that is applicable to all primary food production, and separate chapters that address sector-specific requirements, e.g.

meat & dairy. This structure was specifically designed to provide a framework that could be applicable to all primary production sectors.

The proposed amendment of the FPS Regulation would include a chapter of sector-specific food safety requirements for eggs and egg products and to ensure that the general food safety section is appropriate to the egg industry.

The food safety requirements for eggs and egg products—"The Food Safety Scheme for Eggs"—is to apply to eggs and egg products that are intended for human consumption or animal consumption.

The Food Standards Code (FSC) defines an egg as "the reproductive body in shells obtained from any avian species, the shell being free from visible cracks, faecal matter, soil or other foreign matter". Egg products means "the content of egg, as part or whole, in liquid, frozen or dried form". The FSC further describes visible cracks as "cracks visible by candling".

The *Food Production (Safety) Act 2000* makes provisions whereby the meaning of eggs and egg products can be extended by regulation.

It is intended that, for the purpose of this Food Safety Scheme, an egg (plural eggs) shall be defined as—

"The reproductive body in shells obtained from any avian species".

Aspects of primary production covered under the Scheme

The introduction of a Food Safety Scheme (FSS) for eggs and egg products will trigger the general food safety provisions contained in the FPS Regulations (i.e. sections 4-30). These provisions relate specifically to Food Safety Programs (which all participations in the FSS will need to have), as well as general food safety requirements (e.g. skill and knowledge, water supply and health and hygiene requirements). Further, these provisions relate to auditing requirements for all participants under a FSS. Additionally there is a sector-specific chapter for eggs. All of these requirements are analysed under the cost/benefit section.

It is proposed that the sector-specific Food Safety Scheme for Eggs chapter include the following—

The meaning of eggs and egg products and the aspects of egg and egg product production for which the Food Safety Scheme for Eggs applies including—

- the production of eggs by a layer
- washing, grading and assessing eggs for cracks
- storing eggs at an egg production farm, grading facility, processing facility or depot
- rearing a layer at an egg production farm for the production of eggs at the egg production farm
- growing layer food at an egg production farm for consumption by layers to be used for egg production at the egg production farm
- transporting eggs or egg products—
    - from an egg production farm to a grading facility, processing facility or depot
    - from a grading facility to processing facility or depot
    - from a depot to a grading facility or processing facility
    - within an egg production farm, grading facility, processing facility or depot
- handling of eggs or egg products at an egg production farm, grading facility, processing facility or depot
- processing eggs (including pulping).

Aspects of production not initially covered under this Scheme

Although the scope of the FPS Act intends that a Food Safety Scheme for Eggs and Egg Products is to regulate the production of primary produce from paddock to manufacturing, the Scheme for Eggs and Egg Products will not include, at this stage, the following activities—

- growing, supplying or transporting layer food at or from a place other than an egg production farm for consumption by layers to be used for egg production (this scheme does not included animal feed suppliers—ie those that do not produce eggs or egg products
- rearing a layer at, or transporting a layer from, a place other than an egg production farm for egg production (it is not intended to

extend food safety programs to the supplies of breeders, i.e. that do not produce eggs)

- transporting eggs or egg products from a processing facility or a wholesaler to a retailer (the jurisdictional responsibility for this activity rest with Queensland Health Department)
- retailing eggs or egg products (the jurisdictional responsibility of this activity rest with Queensland Health Department) except for direct on farm sales of eggs to the public
- those who produce eggs for their individual consumption (this is provided for under Section 6 of *Food Production (Safety) Act 2000)*.

Stakeholders

Those affected by the proposed Regulation

All eggs that enter the human food chain are a potential source of food borne illness. This includes eggs that are given away with the best of intentions.

Persons directly affected by the proposed regulation are those who are engaged in the production of eggs or egg products, from any species of bird, for human or animal consumption. Persons undertaking supply of eggs would be required to submit a food safety program. Those most affected are suppliers of cracked or visibly dirty product, other than to a pasteurising plant, and producers of unpasteurised egg pulp.

People who produce eggs for their own consumption are exempt from the proposed regulation under the *Food Production (Safety) Act 2000*. However this regulation would apply to those who supply (which includes give, sell or barter) eggs to others. Those who keep birds as pets, as a hobby (e.g. breeding fancy breeds for show or aesthetic purposes), or for non-food business purposes (such those trading in fertile eggs for bird breeding) are not affected.

Under the proposed regulation it is intended that those with appropriate measures already in place will not require any additional operational procedures.

SFPQ will be the body responsible for administering monitoring and enforcing the accreditation scheme. Where compliance is achieved by audit, audit activities will initially be undertaken by SFPQ but it is anticipated that this will devolve to approved auditor (i.e. private sector providers).

Consumers are major beneficiaries of the proposed regulation, as they will benefit from the introduction of food safety procedures by producers that do not currently employ them. The scheme will better enable consumers to identify eggs not produced under an approved food safety arrangements.

The industry will derive benefits from the following—

- the majority of the industry producing product under existing voluntary food safety and quality assurance arrangements[4] should be protected from 'guilt by association' from the minority of producers that do not employ food safety measures in their businesses
- There should be a lower probability of adverse cuts in sales, which an outbreak of food-borne illness would create
- Producers not previously operating to a food safety program will be less likely to be responsible for causing food borne illness and will be able to demonstrate their duty of care
- Market brand recognition on food safety grounds will build consumer loyalty and result in enhanced competitive outcomes.

Consultation

Development of the Food Safety Scheme for Eggs and Egg Products has been conducted with cooperation between the Food Safety Advisory Committee (***FSAC***), its sub-committee, and other targeted stakeholders. The sub-committee includes; Queensland primary, retail and processing interests; the peak national egg industry body; local and interstate regulators and a prominent interstate egg producer.

4 Dimmock, A.M. (2003). Survey of Queensland Egg Industry. SafeFood Queensland. Internal Report. Suggests as many as 79% of operators have some form of food safety arrangement although the acceptability of many of these is yet to be assessed.

FSAC makes recommendations on food safety matters through its Chair (presently the CEO of SFPQ) to the Minister for Primary Industries and Fisheries. The Directors-General of both the Department of Primary Industries and Fisheries and QHealth also sit on FSAC. For a full list of the members of FSAC and the stakeholder sub-committee refer to Appendix 2.

The Food Safety Scheme (Eggs) Sub-Committee has met on six occasions and, after examining this RIS, has recommended to FSAC that it should be released for comment. After due consideration of this, and other relevant matters FSAC has recommended to the Minister of Primary Industries and Fisheries that release of this RIS should proceed.

Food safety risk and public health

Food Safety in general

Surveillance and monitoring by a number of countries indicate that food-borne illness is generally increasing around the world.[5] In Australia, notification rates for the common food-borne illnesses caused by Campylobacter and Salmonella (both of which are known to be associated with egg-producing birds) have continued to increase.[6] The total number of people affected by food-borne illnesses is now thought to be much larger than the number of cases formally reported[3]. Factors responsible for the increase in reported food-borne illness include[7]—

- **improved methods** of identifying illness as being of food origin
- **a change in the population** with an increase in the proportion in the elderly, young or immuno-compromised 'high-risk' demographics

5 World Health Organisation 1997; US General Accounting Office 1996

6 Crerar, S.K. et al. (1996). Food-borne disease—Current trends and future surveillance needs in Australia. *Medical Journal of Australia* 165(2): 672–675

7 Australia New Zealand Food Authority, Analysis of Draft Food Safety Standards, March 1999, p23–28

- **contemporary farming / processing practices** that have changed the potential of bacteria, agricultural drugs and chemicals to be present in food[8]
- **an increase in the length of the supply chain** from the farm to consumer with more extensive food distribution from large centralised processors
- **increased availability of "ready-to-eat" meals** with extended shelf lives and an associated increase in the time between preparation and consumption but without the need for cooking—an important bacterial "kill step"—prior to consumption
- **new causes of food-borne illness** with three of the four most significant food-borne pathogens in the USA, unrecognised as causes of food-borne illness 20 years ago and the advent of trans-ovarian Salmonella in eggs
- **changing consumer preferences** with an increase in eating-out at restaurants and increases in the consumption of fresh, minimally processed foods with no bacterial "kill step".

It is to be expected that these factors could reasonably influence the public health risk of eggs and egg products, and ongoing control of such risks is necessary.

Food Safety and Eggs

Eggs are a staple component of the Australian diet and an ingredient in many other commonly-eaten foods. Clean fresh eggs without cracked shells are a relatively safe product however, as with most types of food, eggs may pose a food safety risk under certain circumstances. The content of an egg is an ideal growth media for many micro-organisms hazardous to humans. Bacterial cross-contamination of eggs has resulted in many instances of food borne illnesses both within Australia and internationally.[9] Poor food

8 Baird-Parker, A.C. (1990); Foodborne salmonellosis, *Lancet* 336(8725) pp 1231–1235; Food Science Australia; CSIRO/AFISC Final Report of Food Safety Systems developed by the New South Wales Dairy Corporation, March 1999 p 14

9 Miwa, N. et al. (2001). An outbreak of food poisoning due to egg yolk reaction-negative Staphylococcus aureus. Int. J. Food Microbiol. 64(3): 361–366

safety or quality control measures at the primary end of the food chain has contributed to a number of high profile egg related food borne illness incidents in Queensland. These include a 1996 airline-catering incident (500+ patients, 56 requiring hospitalisation) and a 2003 aged care facility incident in Brisbane that resulted in two fatalities from the 47 patients.[10] This RIS presents ways to address risks associated with the primary production and processing of eggs prior to delivery to retail or a food business.

Types of food safety hazard

Food safety hazards are categorised as physical chemical or biological in nature. Because an intact shell largely protects eggs, physical contamination is not considered a significant contributor to egg related food-borne illness or injury. Chemicals, including residues of agricultural compounds, animal medicines, pesticides, sanitisers and cleaners can be a concern with eggs and egg products if not used responsibly. These should be addressed with the implementation of Good Agricultural Practice or Good Manufacturing Practice. Far and away, the most significant hazards for eggs and egg products are microbiological.

Biological hazards

All birds including hens have a common opening to the outside surface for their intestine, urinary and reproductive tracts. This results in the outside of eggs being contaminated with a variety of intestinal micro-organisms.[11] In production methods where eggs are able to come in contact with faeces, or when birds have diarrhoea, shells may also become contaminated with the faeces themselves.[12] This is of particular concern as chicken faeces have been shown to facilitate the

10 OzFoodNet data. For a complete list of Salmonellosis outbreaks associated with eggs in Queensland 1996-2003 see Appendix 3.

11 ICMSF (1998). Chapter 15: Eggs and egg products. In Microorganisms in Foods 6—Microbial Ecology of Food Commodities. ICMSF for Foods of the International Union of Biological Societies. Blackie Academic and Professional, London.

12 Christiansen, N. (2001) pers. comm., cited Egg Producers Federation of New Zealand Code of Practice Draft 7 (2002) <http://www.nzfsa.govt.nz/animalproducts/publications/consultation/egg-cop/>

penetration of micro-organisms into an egg.[13] If an egg is cracked, especially if the inner membrane is breached, bacteria that can spoil the egg or make people ill may gain entry.[14] If the shell is very dirty, micro-organisms are likely to enter the egg more rapidly and in greater numbers.[15] [16]

Cooking is generally considered an important step for destroying or reducing most types of bacteria in food. However it is common for eggs to be consumed raw or only lightly cooked (as either part of another food or by itself) in many countries including Australia. Foods such as scrambled or fried eggs, French toast and omelettes are frequently undercooked, while other foods, such as hollandaise or béarnaise sauce, mayonnaise, and chocolate mousse, may contain raw or undercooked eggs.[17] Such foods are an intrinsically high risk in terms of food safety.[18] For this reason biological hazards are often considered the most important type of hazards associated with eggs. Salmonella species, Bacillus cereus, Listeria monocytogenes, and Staphylococcus aureus have all been cited as bacteria that may contaminate eggs.[19]

However, from a food safety perspective the main pathogen of concern in eggs is Salmonella.

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13 Clay, C.E. and Board, R.G. (1991). Growth of Salmonella Enteritidis in artificially contaminated hens' shell eggs. Epidemiol. Infec. 106, 271–281.

14 It is noted in the South Australian Government's "Food Safety in South Australia's Primary Industries" Strategic Action Plan 2003-2005 that there are epidemiological linkages between pathogens in eggs and food borne illness and that most outbreaks have been associated with 'non-commercial' operators and cracked or dirty eggs. Note 'non-commercial' is poorly defined.

15 Rosser, F.T. (1942). Preservation of eggs. II. Surface contamination on egg shell in relation to spoilage. Can. J. Res., Sect D., 29, 29-6

16 Hartung, T.E. and Stadelman, W.J. (1963). Pseudomonas fluorescens penetration of egg shell membranes as influenced by shell porosity, age of egg and degree of bacterial challenge. Poultry Sci. 42, 147-150.

17 US FDA <http://www.cfsan.fda.gov/~dms/fs-eggs2.html>

18 (Hobbs 1993) from the NZ CoP ref list

19 ANZFA (1999). Review of Microbiological Standards. Eggs and Egg Products. Code of Practice for the Manufacture of Egg Products. (Edition 2). 2000 Food Safety Victoria

Salmonella in particular

Salmonella is a bacterium that is found worldwide and is often associated with the gut of warm-blooded animals. Food that originates from these animals or comes into contact with faeces may be contaminated with Salmonella. It is estimated to be responsible for up to one third of all food-borne illnesses in Australia and normally contaminates the outside of eggs by the shared-body-opening route noted earlier.

Food safety regulators in Australia are also concerned with additional types of Salmonella, only found overseas, becoming established here. Of particular interest is the risk of the establishment of Salmonella enterica serovar Enteritidis (SE), which has the unusual ability to infect the inside of an egg before it is laid. In countries where SE is established in egg producing flocks, eggs are responsible for at least 75% of all Salmonella infections.[20] Extrapolation from this data suggests that if SE were to become established in Australia it could increase the estimated 1.4 million cases of salmonellosis[21] by 3 million to a total of 4.2 million cases annually.[22]

The chances of SE becoming established in Australia has yet to be quantified but would have significant impacts on human health and the egg industry if it did occur.

Summary of assessed risks for egg food safety or the egg industry

The following issues have been assessed and were determined to be of significance/potential significance to food safety in the egg industry.

Major food safety risks from eggs and egg products—

- cracked and dirty eggs
- use of unpasteurised egg pulp

20 FAO/WHO (2002) Risk Assessments of Salmonella in Eggs and Broiler Chickens: Interpretive summary Food and Agriculture Organization of the United Nations and the World Health Organization. ISBN 92 9 156230 7. Pp 44.

21 ANZFA (1999). Review of Microbiological Standards. Eggs and Egg Products.

22 Sergeant, E.S.G., et al. (2003). Samonella Enteritidis surveillance and response options for the Australian egg industry. RIRDC Publication no 03/006. Pp 58.

- lack of traceability
- lack of preparedness for emergence of egg-borne disease not yet endemic in this country.

The proposed Regulation will address the above risks in the following manner—

- By requiring all cracked and pulped egg product be pasteurised
- By requiring all egg producers do so under an accredited food safety program (except for own use)
- By requiring compliance from all commercial non-chicken producers
- By requiring through chain traceability of all egg product.

Other conditions and illnesses in relation to eggs

Eggs are a known allergen to particular sensitive persons and some consumers are intolerant to the product. As these conditions are already addressed under the FSC through the *Food Act 1981*, and subordinate legislation, they are not considered in this RIS.

Discussion on costs and benefits of food safety management

The costs of food borne illness

The Commonwealth Department of Health and Ageing have conservatively estimated that there are 5.4 million cases of food borne illness in Australia[23] every year costing the community more than $3 billion annually. Direct costs in lost productivity and medical expenses of a food poisoning incident were estimated to be $157 per person per day in 1999.[24]

23 How much gastroenteritis in Australia is due to food? Commonwealth Dept. of Health and Ageing Report 2004.

24 ANZFA (1999). Food safety costs and benefits, an analysis of the regulatory impact of proposed national food safety reforms ISBN 0 64234536 8.

Costs per individual hospitalised have been separately calculated to be as high as $2470.[25] Applying these estimates to the egg-implicated 1996 Cairns airline catering incident (where there were more than 500 patients) the costs sum to (at least) $78 500. For the patients that required hospitalisation during the incident the bill is calculated at $138 320. Applying these multipliers to the 1997 Salmonella outbreak in Victoria, that affected 860 people, suggests direct costs of $135 020 were incurred by the community.

The indirect costs, including product recall costs, litigation, loss of consumer confidence, and costs to government, are considered to be as much again as the direct costs. These costs are not necessarily restricted to the business or food sector responsible. In response to the Wallis Lakes incident (where oysters were contaminated with Hepatitis A), sales of finfish dropped by 30% for several months while the 1996 Garibaldi mettwurst incident is thought to have contributed to 400-500 smallgoods businesses going out of business.[24] The 1997 Victorian Salmonella contamination of smallgoods mentioned above not only resulted in $16 000 in fines and a $750 000 insurance settlement but, following as it did only one year after Garibaldi, is thought to have cost the Australian smallgoods industry approximately $400 million.[24]

If the experience of the SE epidemic caused by eggs in the United Kingdom is repeated in Queensland, egg consumption could fall by at least 20 eggs per person over a two-year period.[26]

The cost of a food safety program

Costs associated with setting up and maintaining a food safety program depend a great deal on the size and complexity of a business and what the program is intended to achieve. For instance, at present some businesses might elect to implement a basic minimal food safety regime to meet their duty of care to customers. It is likely that any management option would be set at this ‘minimum effective’ level.

25 Agriculture, Fisheries and Forestry – Australia, NCP Review of Imported Food Control Act, <www.AFFA.gov.au>, Page last updated by Internet Section, 17 August 2001.

26 Sergeant, E.S.G. et al. (2003) Salmonella enteritidis surveillance and response options for the Australian egg industry, Rural Industries Research and Development Corporation. Research Report No. 03/006.

Other businesses might introduce more complex arrangements to meet the requirements of large retail chains. Further still, some businesses might take the opportunity to combine food safety management with other non-food safety systems to help the efficiencies of their business or make improvements to their product.

All businesses operate under different constraints and need to develop a Food Safety Program that meets all their businesses requirements including cost and scope. SFPQ recognises that this is a matter of personal choice and will only stipulate that it will need to pass an SFPQ desk audit when the program is finally developed. For this reason SFPQ will not tell businesses how it should go about developing their Food Safety Program however there are a number of logical options that have different costs associated with them.

For instance many businesses in the egg industry already have an appropriate Food Safety Program in place. If it is in line with industry best practice it would likely cost very little, if anything, to alter it to meet any new requirements. It is also possible that, under certain conditions, a producer might be able to become an 'approved supplier' under a Processor's Food Safety Program. Under this 'approved supplier' arrangement it is expected that most, if not all, of the developmental costs would be incurred by the processor. The costs and requirements of being part of this 'approved supplier' arrangement would then be a private matter between the producer and the processor.

Another option would be for a business to develop a food safety program independently. Depending on the food safety knowledge of the person developing the program, some additional research or training costs might be incurred. A potentially cost-effective arrangement might be to base a Food Safety Program on an existing, appropriate, industry code of practice. One example of this is the National Egg Quality Assurance program. This program, which includes elements of food safety, is available from the Australian Egg Corporation Ltd. for approximately $56 (as at March 2004). Again, some form of training might have to be undertaken by the egg producer to interpret and implement this program, depending on the background and skill-base of that producer. Another alternative might be to commission a professional food safety consultant. The use of such a consultant has the potential to significantly increase the cost of developing a food safety program. However the experience, expert

advice, training, and implementation assistance a consultant may offer could be seen as desirable by some businesses.

It should be noted that these private costs of developing a Food Safety program are quite separate from the fees charged by the Government to allow a business to become an accredited operator under the regulation.

The cost associated with becoming accredited under the Scheme

The Queensland Government, to date has agreed to a joint funding arrangement for SFPQ's activities. This provided through an arrangement whereby Government contributes (40%) and Industry (60%) of SFPQ's expenditure. The Industry contribution is generated through annual accreditation and audit fees associated with SFPQ's food safety activities. Consistent with this agreement, the Government has approved a funding advance to SFPQ of $1.8 million in 2004-05, with the actual Government contribution to be reviewed when the audited financial statements for SFPQ for 2003-04 are finalised. This funding framework will require industry to fund compliance activities such as audit and inspection in addition to set-up costs and administration fees associated with joining the scheme.

Current Accreditation fees for Meat & Dairy

Type of dominant activity	Description of the primary activity	Examples of current businesses within the category	Proposed level of the flat fee $
Exporter	Businesses that are AQIS registered.	Export abattoirs and dairy factories.	5 000
Processor[a]	Businesses whose activity is the processing of primary produce.	Abattoirs, slaughter-houses, dairy factories and larger butcher shops that process meat.	1 000

Type of dominant activity	Description of the primary activity	Examples of current businesses within the category	Proposed level of the flat fee $
Retailer/ Wholesaler	Only applicable to meat.	Butcher shops.	320
Distributor	Businesses that transport primary products from farm to processor.	game boxes, vehicles, harvester's vehicles.	180
Delicatessen/ Corner store	Only applicable to meat.	Delicatessens and small corner shops that sell unpackaged meat and chicken and sausages.	180
Producer[b]	Businesses that produce milk.	Dairy farmers	250

a It is proposed that businesses that pack and grade eggs commercially on behalf of other producers would fall under this 'Processor' category.

b It is proposed that farms that produce eggs, grade for themselves and run a small egg retail operation from the farm would be included in this category.

The proposed level of accreditation fees is based on the current approved levels of fees already in place for the Food Safety Schemes for Meat and Dairy. It is proposed to provide for a CPI increase in these fees to take effect as from 1 January 2005 that would also subsequently apply to the level of fees for the proposed Food Safety Scheme for Eggs.

Audit and administration fees

All applicants for accreditation will be subject to a one-off application fee of $100. Additionally, as part of the "set up" procedure, an applicant will require an assessment of their proposed food safety program as well as an inspection of the proposed facilities to demonstrate their proposed food safety program in operation. The

entire "set up" process is charged at a rate of $150 per hour with a flat travel fee of $75.

While it is SFPQ policy that contestable private sector (i.e. "Third party") auditing should be an option available to accreditation holders under each FSS after the first 12 months of a new Scheme, this depends on the level of progress made by accreditation holders in meeting the core FSS accreditation requirements to begin with. Compliance audits undertaken during the first 12 months of operation are charged at $150 per hour with a flat travel fee of $38.

Accreditations must be renewed every 12 months in advance.

Points to consider

- Over and above the accreditation fee, the total cost to comply with the scheme will vary according to compliance requirements such as audit.
- Audit frequency will reflect risk and compliance performance of the food safety program.
- SFPQ has approved a number of private-sector auditors who are listed on the SFPQ register. Accredited business involved in activities considered to be of 'low risk', in food safety terms, will have the option to use these auditors to undertake their routine compliance audits (following the initial one year probationary period).

Benefits of complying with the proposed regulation

The principal benefits of the proposed Regulation are—

- a reduction in the risk of future food borne illness from contaminated eggs and egg products
- prevention of economic loss from wasted eggs and egg products due to contamination
- the facilitation of an environment that should maintain the existing good public perception of the safety of eggs and egg products

- development of a management system which contributes to the control of food-safety risks from egg/egg product throughout the supply chain
- delivery of a clear statement about industry participants obligation to produce safe food
- the imposition of appropriate rules with due regard to the level of risk of particular activities.

Food safety is a public health issue that can never be principally considered on economic grounds. This is because 'economically efficient' options that do not adequately protect public health remain unacceptable.

There is a large public benefit by way of potential public and private savings if there are less instances of food-borne illness. Recently the Economic Research Service of the United States Department of Agriculture (USDA) estimated the cost of food-borne illness in the US from five common pathogens alone to be $US6.9 billion p.a.[27] When the costs to Australia of food-borne illness is allocated to Queensland on a per capita basis, this calculates out to be more than $880 million p.a. Even a small percentage reduction in food-borne illness would generate substantial savings.

The impact of a food-borne illness goes beyond immediate consumption and extends to consumer behaviour in other areas such as tourism. For example, the previously mentioned Cairns airline-catering incident, resulted in a downturn in bookings for the airline involved and impacted upon the reputation of North Queensland as a tourist destination. A reduction in such high profile FBIs would be of considerable benefit to a wide cross-section of the community.

Reducing duplication of other enforcement

There will be no duplication of audit effort because Queensland Health has indicated that it will recognise that this Regulation brings about compliance with the food regulatory model. Queensland Health would therefore deem that those operators accepted under this Scheme

27 Murphy, D. (2001). www.meatingplace.com (12 June 2001, report via FoodSafetyNet)

would meet the requirements of the impending changes under the Food Safety Standards. This arrangement has considerable potential to benefit businesses financially by dealing with a single regulator in food safety matters.

The labelling and composition requirements of the Food Standards Code would continue to apply and be enforced by either Queensland Health or local Government.

The ultimate beneficiaries

The ultimate beneficiaries are consumers (both end-point and industry consumers e.g. food service/retailers and manufacturers) who—

- need to be assured that the Government and its regulatory authorities are facilitating industry compliance with essential food safety measures and providing the necessary information to allow consumer choice.
- need to be assured that the regulatory authorities have the necessary capacity, flexibility and freedom to effectively deal with risks, threats and hazards and are supported with the necessary scientific expertise to ensure credibility.

Industry consumers (food services/retail and manufacturers) will benefit through enhanced food safety outcomes achieved by improving food safety standards of the primary produce, because the output from the primary industry sectors are in most instances inputs into the food services, manufacturing and retail sectors. No cost benefit analysis can precisely quantify these benefits.

Description and likely effectiveness of regulatory options

The Cost Benefit Approach Used

Compiling a quantitative cost benefit analysis of Food Safety Schemes is complex because it is analysing neither a fixed environment nor a simple equation. The environment is continually changing and with that, the profile of risk changes continually across an industry. This in turn alters the likelihood and impacts of that risk. A simple example of this is the recent discovery that Salmonella, a pathogen commonly

associated with eggs and poultry, may increase chances of patients suffering from a longer-term condition known as reactive arthritis.[28]

Many of the costs and benefits associated with the regulatory options are intangible such as loss of human life and lifetime illness. It is very difficult to attribute absolute or dollar amounts to costs and benefits of this kind. The approach taken in this RIS is to rank potential risk against which no dollar amount can be calculated while also taking into account likely costs and benefits.

The Options

The following options were considered to address the objectives of ensuring safe and wholesome food in the egg industry—

Option 1	The status-quo— no primary production regulation
Option 2	Advocating active self-regulation or voluntary regulation.
Option 3	Implement a mandatory regulation

Description and likely effectiveness of options

Option 1—The status-quo—no primary production regulation

There are no existing food safety regulatory requirements for eggs and egg products (in the primary production sector) in either the Food Standards Code, the *Food Act 1981* nor the *Food Production (Safety) Act 2000*. It has become increasingly obvious that many eggs available to the public and food service industry do not meet any food safety requirements. When one examines the causative agents implicated in egg-related food borne illness it becomes clear that a significant proportion are best addressed on farm or as part of the

28 Hill and Lillicrap (2003) Best Pract. Res. Clin. Rheumatol. 17(2):219-39

grading operation. This position is supported by eminent international researchers.[29]

With an unregulated primary production sector it is difficult for those further down the supply chain to identify product that is produced under an acceptable program. Regulators would need to act on complaints—the veritable 'ambulance at the bottom of the cliff'—employ expensive testing to show non-compliance, and, for logistical reasons direct effort toward random or targeted sampling rather than assessment of all product. Such end-point testing is but one of the tools available to manage food safety and, on its own, is ineffective.

The likelihood of food borne illness occurring due to lack of food safety measures (as opposed to the breakdown of appropriate food safety measures) will always be related to the lowest level of compliance in an industry. In time, the market would determine the appropriate value of food safety from a business perspective in terms of—

- customer health and satisfaction
- protection from and defence of litigation
- the availability or contraction of markets.

In the worst case scenario businesses could be affected by market failure in the face of a serious food safety issue.

However, the economic model does not necessarily reflect the needs and expectations of all stakeholders. In terms of regulatory responsibility, the Queensland Government is party to an Inter-governmental Agreement (IGA) committing it to the adoption of risk-based food safety regulation for the good of all Australian consumers. By not regulating, not only would the Government set-up regulatory inequality between the States,[30] but could be seen to be abrogating its social mandate to manage provision of a safe supply of food.

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29 Humphrey, T. (2003) pers. comm. Humphrey, the Professor of Food Safety at the University of Bristol, specialises in poultry disease and was an author of recent Interpretative Summary of the FAO/WHO Risk Assessments of Salmonella in Eggs and Broiler Chickens.

30 Many States including New South Wales, Victoria and Tasmania are proposing increase food safety regulation of their egg industries in line with the IGA

By ignoring its regulatory responsibilities, the Government could be faced with significant costs through the social and health systems and potentially litigation in the event of food safety incidents, as demonstrated by the Wallis Lakes (oysters) incident in New South Wales.

Crucially, in an unregulated environment there are extremely limited mechanisms to sanction poor/dangerous operators or remove them from the industry.

Option 2—Industry, or Government, advocated voluntary regulation

Option 2 refers to a wide range of rules or arrangements by which industry/Government influences businesses to comply, but which do not form part of explicit Government regulation. Some examples of such quasi-regulation include industry codes of practice, guidance notes and industry/Government agreements.

Queensland egg industry experience suggests that it currently resembles many other industries where such voluntary arrangements are working well with the large-scale operations that have state-wide, or nationally, recognised brand names. In Queensland, and indeed other States, many such producers have introduced food safety or quality assurance systems while a number of smaller suppliers are appreciative of food safety or have implemented requirements required by the major retailers.[31] Furthermore, there is an industry-sponsored initiative, the AEIA/AECL National Egg Quality Assurance Program, which provides a cost-effective quality assurance model with a food safety component. Such industry initiatives are encouraged as it is clear evidence of the industry driving change and taking responsibility for food safety outcomes.

However, history suggests, all producers do not embrace the uptake of such strategies. It is generally accepted that it is the producers that are NOT PART of voluntary arrangements that pose the greatest potential

31 Dimmock, A.M. (2003). Survey Of Qld Egg Industry. Safe Food Qld. Internal Report. Suggested 27% of Qld producers employ a HAACP-based food safety program while a further 52% operate under some form of food safety/QA arrangement that may have a grounding in HAACP principles as is the case with the Sunny Queen "Farm to Table" program.

threat to food safety and to the good reputation of the large number of responsible operators within industry.

For this reason it is considered that self-regulation or voluntary regulation will not deliver the food safety outcomes that are expected by the public and to which the Queensland Government has committed.

Furthermore, in time and without positive reinforcement it is likely that some producers currently employing food safety measures may find it difficult to financially justify maintenance of their programs if there is no sanction for non-compliance. This could eventually lead to a worse food safety situation than the current one.

A comparison between Options 1 and 2

Even in the absence of compulsory food safety requirements, businesses are free to implement food safety measures. The main difference between Options 1 and 2 is really in the level of uptake of such programs and how communication or education can increase the prevalence of food safety arrangements. Given that, without a level of compulsion, some businesses will elect not to implement food safety arrangement, Options 1 and 2 will be considered together for the remainder of this section.

Option 3—Mandatory Regulation

Option 3 Refers to rules or arrangements with which businesses must comply in order to legally participate in the industry. A consequence of this is some form of Government infrastructure to administer monitoring activities and assess compliance.

The Queensland Government is committed to the nationally endorsed minimum food safety standards by way of the Food Standards Code. Part of the philosophy behind this new national process was to move away from prescriptive and toward outcome-based requirements for food safety management. Under such an outcomes-based regulation it is expected that businesses that already have appropriate food safety arrangements in place would either meet the new requirements or would do so with minor modifications to their programs.

Cost benefit analysis

Option 1 —The status-quo—no primary production regulation

Costs—

- to industry
  - reduced cost for businesses not concerned with food safety measures
  - potential litigation in the event of a food safety incident on the basis of failing to demonstrate a 'duty of care' to consumers
  - similar costs to present for responsible businesses concerned with the safety of their product
  - potential loss of viability of industry in the wake of a serious food safety breakdown
  - potential loss of consumer confidence resulting in reduced consumption or change to alternative food products
- to Government
  - costs of providing health services to consumers who become ill from food-borne illness
  - potential legal expenses through litigation due to abrogating responsibility to the public in ensuring a safe food supply
  - almost certain failure of Queensland Government to meet obligations under the COAG Inter-Governmental Agreement on Food Regulation
- to the consumers / community
  - personal distress, medical treatment, time off work as the result of food poisoning
  - loss of employment / lifestyle options due to acute or chronic effects of food borne illness
  - loss of confidence in the safety of eggs and or egg products.

Benefits—

- to industry
  - Short-term benefit in the form of reduced costs for businesses not concerned with food safety measures is likely to be offset by litigation or market failure over time
- to Government
  - Saving on cost of implementing, overseeing and administering regulation– this would likely be offset by providing health services to patients and the cost of litigation suggesting that the Government has abrogated responsibility to the public in ensuring a safe food supply
- to consumers / community
  - the price of eggs and egg products will not increase to cover compliance costs, or alternately may decrease as industry dispense with Food Safety Programs
  - greater perceived freedom of choice due to availability of product from a wider variety of sources that might not be commercially viable with the added cost impost of food safety arrangements.

Option 2—Self-regulation or voluntary regulation

Costs

- to Industry
  - reduced cost for businesses not concerned with food safety measures
  - potential litigation in the event of a food safety incident on the basis of failing to demonstrate a 'duty of care' to consumers
  - similar costs for responsible businesses concerned with the safety of their product
  - potential loss of viability of industry in the wake of a serious food safety breakdown

- potential loss of consumer confidence resulting in reduced consumption or change to alternative food products

- to government
  - costs of providing health services to consumers who become ill from food-borne illness- likely to be a inversely proportional to the uptake of voluntary food safety arrangements
  - potential legal expenses through litigation due to abrogating responsibility to the public in ensuring a safe food supply
  - uncertain compliance of Queensland Government with obligations under the COAG Inter-Governmental Agreement on Food Regulation
- to consumers / community
  - personal distress, medical treatment, time off work as the result of food poisoning
  - loss of employment / lifestyle options due to acute or chronic effects of food borne illness
  - loss of confidence in the safety of eggs and or egg products.

Benefits—

- to industry
  - short-term benefit in the form of reduced costs for businesses not concerned with food safety measures-likely to be offset by litigation or market failure over time
- to Government
  - saving on cost of implementing, overseeing and administering regulation– likely to be offset by providing health services to patients and litigation on the basis of abrogating responsibility to the public in ensuring a safe food supply
- to Consumers / Community
  - the price of eggs and egg products will not increase to cover compliance costs, or alternately decrease as industry dispense with Food Safety Programs

- greater perceived freedom of choice due to availability of product from a wider variety of sources that might not be commercially viable with the added cost impost of food safety arrangements.

Option 3—Implement a mandatory regulation

Costs—

- to industry
  - government accreditation charges to the egg industry. When the individual farms accreditation charges are multiplied by all the farms in Queensland this could sum to $32 500 per annum[32]
  - cost of developing food safety arrangements. This would vary depending on risk and the complexity of the business
  - compliance/audit costs. This would vary depending on risk and the complexity of the business
- to government
  - costs of implementing, administering regulation, is higher than current situation where there is no food safety regulatory requirements at all
- to consumers/community
  - the price of eggs and egg products may rise slightly to cover compliance costs
  - a perception of a reduction in 'freedom of choice' as producers that formerly supplied the public unable to meet minimal safety standards and leave the market.

Benefits

- to industry

32 Assuming 130 producers apply for accreditation

- higher consumer confidence in the safety of eggs and egg products, which protects the market share of eggs and egg products in the food market
- level playing field for all participants resulting in responsible producers not being at a cost disadvantage

- to Government
  - potential to reduce costs associated with providing health services to consumers who become ill from food-borne illness
  - seen to be protecting consumers from unsafe food – benefit much higher than Options 1 and 2
  - compliance with nationally agreed to food regulation reform obligations.
  - less probability of legal expenses through litigation
- to Consumers / Community
  - potentially lower rates of food-borne illness attributed to eggs and egg products
  - greater confidence in the safety of eggs and egg products.

Summary of Costs and Benefits

The three options outlined above were assessed against the following criteria—

- reduce the incidence of food-borne illness
- reduce the uneven regulatory burden on industry
- be cost effective for the community, Government and business
- introduce a preventative approach to food-borne contamination
- encourage business to take full responsibility for the safety of the food they produce
- be consistent with National Standards
- be consistent with international best practice.

Conclusion

Ability to reduce the incidence of food-borne illness

As mentioned previously, in practical terms there is little difference between Options 1 and 2. This is because, there is no compulsion to implement the voluntary arrangement described in either Option.

It is acknowledged that proactive members of the Queensland egg industry have introduced food safety arrangements on a voluntary basis. Such a level of maturity in industry is commendable. It is reasonable to presume that this has contributed in a positive manner to the low number of egg-related food borne illnesses in Queensland. However it is unlikely that this situation will improve while a significant minority of the industry remain unregulated while maintaining a cost advantage over 'best practice' producers by avoiding implementation of food safety programs. A worst-case scenario could see food safety measures degrading if best-practice producers see their competitiveness eroded in the face of costs of maintaining their programs because there are no sanctions in place for those that avoid food safety responsibility.

Option 3—Mandatory regulation is assessed as the most effective legislative means to help reduce the incidence of food-borne illness. Risk-based food safety programs, in combination with good hygienic practices and education of food handlers, are seen as pivotal to reducing the incidence of food-borne illness. Unlike Options 1 and 2, Option 3 mandates a preventative approach to food safety and thus encourages business that have not yet to taken responsibility for the safety of the food they produce and to respond quickly to new hazards.

Ability to reduce the regulatory burden on business

On the face of it, the least regulatory burden is Option 1—the no primary production regulation-option. This option would clearly has no licensing, accreditation, compliance requirements under regulation. However the lack of a regulation would not absolve either the retailers that egg producers might supply, or the producer themselves if they retail from farm or markets, of the requirement to meet the Food Standards Code i.e. eggs would still be required not to be dirty or to have cracked shells. Supplying product not meeting existing Food Standards Code requirements, particularly if they were

considered to have caused a food borne illness, could still be pursued under the existing Serious Food Offences provisions of the *Food Production (Safety) Act 2000*.

Option 2, self or voluntary regulation would also avoid licensing/accreditation and Government administration fees. However, many businesses would still choose to comply with their own, or industry-driven, food safety or quality assurance schemes, to differentiate themselves from their competition, to comply with customer requirements, or to demonstrate their duty of care to consumers (particularly those considering litigation following a food borne illness). Duplication of assessment of such programs, to suit more than one requirement type, is already seen to be a burden on a number of food businesses.

Option 3, the mandatory regulation, by definition imparts a higher regulatory burden on food businesses. For a business already maintaining an independently assessed food safety program the additional cost impost will be fees associated with initially registering as a food business with Safe Food Qld and maintaining this by paying an annual accreditation fee.

Ideally, by applying mandatory, equitable, standards to all food businesses there is the opportunity for industry recognition of equivalence and a reduction in duplication. It is certainly anticipated that Government recognise equivalent programs where possible. Furthermore, in addition to this a modern regulatory approach provides businesses with a mechanism to meet existing Food Standards Code requirements, compliance with which is mandatory whether or not a regulation is introduced. A move to such broad consistency should reduce the regulatory burden on industry.

Cost-effectiveness for the community, Government, industry and consumers

All options have associated costs and benefits for the community. Analysis of the options shows that Option 3 has an additional initial cost to business and Government but at the same time is most likely to reduce food safety incidences and therefore the cost of food-borne illness.

In this particular assessment, no regulation (Option 1) and self-regulation or voluntary regulation, as proposed under Option 2

are considered together. This is because under either scenario the main difference is the 'good will' of the business concerned. These two options may have an immediate appeal for some industry participants. The cost to industry members that choose to implement food safety arrangements is similar to the costs of a mandatory arrangement, aside from application, accreditation, and ongoing compliance fees. The costs to operators that choose not to be part of a voluntary arrangement are, in the first instance, negligible. However given the legal obligation to sell safe food, the potential of business failure due to litigation and a failure to meet consumer and industry expectations may weigh against initial cost savings.

It is the Government's view that consumers would benefit through reduced incidence of food-borne illness and commensurate reductions in financial, emotional and lifestyle costs.

The cost effectiveness of Option 3 varies depending on the perspective of the individual stakeholder. A mandatory scheme offers the greatest benefits to the consumer and the Government. It offers significant benefits to proactive businesses with food safety measures already in place but who harbour the real fear that the reputation and acceptability of their product might be adversely affected by food safety incidents. Under the overarching contemporary philosophy of a financial contribution from users of Government services, the flexibility of an outcomes-based regulation and a move toward third party auditing arrangements markedly improves the cost-effectiveness of Option 3 relative to previous prescriptive, Government regulatory structures.

Ability to facilitate trade

Both in Australia and internationally there is a move to implement outcomes-oriented, preventative food safety standards based on the principles of risk-based management. Governments and industry alike recognise the principles that "prevention is better than cure" and that a risk-based approach to food safety assurance is the way of the future.

Options 1 and 2 are not consistent with either domestic or international best practice or industry initiatives, and as such, would not facilitate trade domestically or internationally in regard to food safety. Option 3 mandates a consistent, industry-wide approach to food safety and is therefore likely to be, more acceptable to interstate markets and thus provides the best way to facilitate trade.

The preferred option

Based on the above consideration and weighing-up the ongoing benefits for the entire community, Option 3 is deemed to be the preferred option. The proposed Food Safety Scheme for Eggs and Egg products represents the best way to minimise the incidence and cost of food-borne illness in Queensland/Australia. It will be designed to provide industry with a flexible regulatory environment with minimal prescription, national consistency and the opportunity to compete effectively in domestic and international markets.

Appendix 1—Consistency with legislative requirements and protocols

Consistency with the Authorising law

Section 39 of the FPS Act provides the head of power for the making of Food Safety Schemes. Section 39(5) of the Act provides that a Food Safety Scheme is subordinate legislation.

Consistency with other Legislation

National Legislation

Model Food Bill 2000

Food Standards Australia New Zealand Act 1991

Australia New Zealand Food Standards Code

Imported Food Control Act 1981

Queensland Legislation

Food Act 1981 and subordinate legislation

The FPS Act is in addition to, and does not limit, the Food Act 1981 which is administered, implemented and enforced by the Department of Health. The Food Act 1981 directly calls up, and makes it an offence not to comply with, the Food Standards Code. The Food Hygiene Regulation 1989 provides licence / accreditation provisions for businesses in the food service, food retail, and manufacturing sectors.

Agricultural Standards Act 1994

The FPS Act extends the period of review of the Agricultural Standards Act 1994 to allow for the establishment of SFPQ and for the assessment of the interaction between the food safety schemes and the Agricultural Standards Act 1994.

New South Wales Legislation

Food Production (Safety) Act 1998

The proposed Food Safety Scheme for Eggs and Egg Products in Queensland under the FPS Act is consistent with proposed arrangements for eggs and egg products under development in NSW.

Fundamental Legislative Principles

The *Legislative Standards Act 1992* outlines fundamental legislative principles, which require that legislation will have sufficient regard to the rights and liberties of individuals and the institution of Parliament. The proposed regulation has sufficient regard to these principles.

National Competition Policy

Principles

- Both in Australia and internationally there is a move to implement outcomes-oriented, preventative food safety standards based on the principles of risk- and evidence-based analysis. Governments and industry alike recognise the principle that "prevention is better than cure" and that a risk-based approach to food safety assurance is the way of the future.
- Moving to third party auditing – promoting competition in the market place (e.g. first party auditing is conducted by the business, second party auditing is conducted by Government and third party is conducted by an independent auditor).
- Applying COAG's Inter-Governmental Agreement on Food Regulation (November 2000) national policy in the area of food safety.
- Participants, at all levels, are being treated the same, e.g. requirement to comply with national food safety standards.
- Fees are applied equitably across industry sectors.
- Industry responsible for ensuring that their programs comply with the Scheme.

- The proposed regulations are not anti-competitive (i.e. no unreasonable restriction placed on new entrants).

Appendix 2—Food Safety Advisory Committee (FSAC), and stakeholders sub-committee membership

The Food Safety Advisory Committee (FSAC) consists of the following members—

- Chief Executive Officer of SFPQ
- Chief Executive Officer of the Department of Primary Industries
- Chief Executive Officer of the Department of Health
- a number of industry representatives
- a consumer representative.

The FSAC has established a Food Safety Scheme (Eggs) Sub-Committee to assist with the development of the Food Safety Scheme for Eggs and Egg Products.

Representatives of the following organisations make up the composition of the Sub-Committee—

- the Queensland Egg Farmers Association
- the Australian Egg Corporation Ltd
- Sunny Queen Ltd.
- Halls Farms Ltd
- McLean Farms Ltd
- Pace Farms Ltd (NSW)
- Golden Cockerel Ltd
- the Organic Food Chain
- Commerce Queensland
- National Retail Association
- Action Supermarkets (through Foodland Associated Ltd.)
- Coles Supermarkets Ltd
- Woolworths Supermarkets ltd.
- Local Government Association of Queensland
- Food Industries Association of Queensland

- Queensland Retail Traders and Shopkeepers Association
- Restaurant and Catering Australia
- Queensland Health
- Safe Food NSW
- Queensland Department of Primary Industries
- Food Standards Australia New Zealand
- Victoria Department of Natural Resources and Environment
- EML Ltd
- AQIS
- SFPQ.

Appendix 3—Salmonellosis outbreaks associated with eggs in Queensland 1996-2003

Outbreak No.	Year	Number ill	Serovar	Phage type	Food Item	Setting
1	1996	500+ (56 hospitalised)	Heidelberg	16	Chocolate parfait / Anglaise sauce	Airline
2	1996	52	Typhimurium	RDNC / AO41	Assorted sandwiches	Hospital
3	1999	7	Heidelberg	1	Egg nog drink	Aged care facility
4	1999	49	Typhimurium	8	Egg-based dessert (Tiramisu and choc mousse)	Restaurant
5	2001	12 (6 hospitalised)	Heidelberg	1	Egg flip	Age care facility
6	2001	27	Mbandaka		Egg sandwiches and hard boiled eggs	Café

Outbreak No.	Year	Number ill	Serovar	Phage type	Food Item	Setting
7	2002	10 (8 hospitalised)	Typhimurium	135a	Salmon patties	Function at a private residence
8	2002	6	Typhimurium	170	Chicken hatching (handling baby chicks)	Child care centre
9	2002	12	Typhimurium	135a	Suspected egg sandwiches	Child care centre
10	2003	47 (16 hospitalised 2 deaths)	Typhimurium	135a	Suspected egg nog made with raw egg	Aged care facility
11	2003	18 (3 hospitalised)	Typhimurium	135	Suspected Hollandaise sauce	Restaurant

ENDNOTES

1 Laid before the Legislative Assembly on . . .

2 The administering agency is the Department of Primary Industries and Fisheries.