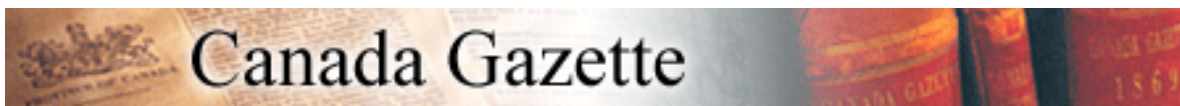












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Vol. 139, No. 11 — March 12, 2005

Regulations Amending the Egg Regulations

*Statutory authority**Canada Agricultural Products Act**Sponsoring agency*

Canadian Food Inspection Agency

REGULATORY IMPACT ANALYSIS STATEMENT

(This statement is not part of the Regulations.)

Description

The *Egg Regulations* (the Regulations) establish the grading, packing, marking and inspection requirements for shell eggs, the requirements for the registration and operation of egg stations and the interprovincial and import/export requirements for the trade of shell eggs. This amendment addresses several issues related to the implementation of new technologies in the industry and strengthens certain health and safety provisions. Most of the elements of the proposal affect registered egg stations where eggs are graded pursuant to the Regulations. A short description of the changes follows.



Recently, new technology has been made available to the shell egg industry which allows for eggs to be pasteurized in their shell. The current Regulations do not contain any provisions to allow for the approval of the pasteurization process, its adoption by registered egg grading establishments, or the appropriate labelling of eggs that have been pasteurized. There is an amendment included in this proposal that establishes these provisions in the Regulations so that they can be adopted once the pasteurization process is approved by Health Canada.

The current Regulations do not contain all the requirements applicable to an egg station operating under a Hazard Analysis and Critical Control Points (HACCP) system. Under HACCP requirements, registered egg grading establishments will be required to document and implement a quality assurance program, a pest control program, an employee training program and, where applicable, the process for pasteurizing eggs in their shell. These proposed amendments establish some of the requirements necessary for operation under an HACCP system.

Included in this proposal is an amendment to revise the wording relating to the suspension and cancellation of the registration process. Under the current Regulations, an inspector is required to notify the operator at the time of inspection by way of an inspection report noting the operator's failure to comply with the *Canada Agricultural Products Act* (the Act) or the respective regulations. This amendment to the Regulations proposes to allow for a Canadian Food Inspection Agency (CFIA) official to communicate to an operator in writing at any time after the violation rather than only at the time of inspection. The reasons justifying the suspension and/or cancellation of a registration are not being changed. However, the current methods of communication with the operator lack some flexibility.

A number of amendments included in this proposal address emerging food safety issues in the egg program. The amendments include proposals to physically separate washed (graded) and unwashed (ungraded) eggs, lower the storage temperature requirements for washed eggs, prohibit the presence of dirt on Canada B grade eggs and prohibit the movement of eggs returned from retail stores to the egg station back onto the table market. Certain provisions have a delayed coming into force date in order to allow industry sufficient time to make any necessary changes to their facilities.

An amendment to revoke the prescribed tolerance on grades for eggs inspected at origin is also included in this proposal. This provision is no

longer required as the tolerance is identified through a statistical sampling plan in the shell egg program manual.

An amendment to reduce the minimum weight of Canada A Extra Large Size eggs from 64 grams to 63 grams is also included as it is strongly supported by industry.

Alternatives

1. Status quo—Do not implement the proposed amendments to the Regulations

For those provisions that are primarily health and safety in nature, the CFIA would be criticized for not taking risk management measures intended to protect the Canadian public if the status quo were maintained. The United States could also question the equivalence of our inspection system in the absence of some of the provisions being adopted.

Without adopting any provision with regard to pasteurizing eggs in their shell, there would be no incentive for the industry to adopt this new technology, which may also improve the safety of eggs and increase marketing opportunities.

2. Implement the proposed amendments to the Regulations (preferred option)

These proposed amendments provide the best option to ensure food safety and create flexibility for the CFIA.

These amendments modernize the wording of the Regulations which will allow industry to incorporate new technologies that may improve the safety of eggs and increase marketing opportunities.

The introduction of HACCP principles into the food commodity regulations is a CFIA priority. Strengthening health and safety regulatory provisions is also compatible with the CFIA mandate.

Benefits and costs

The proposed amendments constitute a minor regulation and do not place a significant regulatory burden on industry. Therefore, a full cost-

benefit analysis is not required.

The benefits of the proposed amendment to allow the labelling of eggs pasteurized in the shell are primarily

(a) a possible reduction in the risk to consumers associated with food borne illnesses linked to eggs and salmonella; and

(b) an expansion in marketing opportunities for this type of product for the Canadian egg industry.

The costs to the CFIA are expected to be minimal as the establishments that are currently registered and inspected will likely be the ones to implement this technology. Implementation by industry is not mandatory; it is therefore an industry decision whether to assume the costs associated with implementation.

The benefits of developing regulations to more fully encompass the HACCP system and to address food safety gaps identified in the Regulations are intended to further enhance the safety and wholesomeness of shell eggs marketed in Canada. These amendments are supported by both the CFIA and the Canadian Poultry and Egg Processors Council (CPEPC). For the industry, there will be some costs associated with the adoption of the new regulatory provisions but, for the most part, the larger registered egg grading facilities, which account for the majority of the table eggs graded and packaged in Canada, have already adopted most of the measures proposed in these amendments. It is expected that the costs to the CFIA will be minimal.

The benefits of changing the wording in the Regulations as it relates to suspension and cancellation of registration are of an administrative nature. By adopting the proposed amendment, the CFIA will have more flexibility in communicating to the operator the violations which may lead to the suspension or cancellation of a facility. It is not expected that this will impact the CFIA or industry from a cost perspective as it is only intended to give the CFIA more flexibility.

No longer accepting dirt on Canada B grade eggs will result in a very small percentage of eggs ineligible for any grade and being destroyed or used as animal feed. As an option, a provision could be made to allow these eggs to be diverted to a registered egg processing facility. However, initial consultation with the industry has not revealed any interest in creating such a provision.

There are no benefits to the CFIA in changing the minimum weight requirements for Canada A Extra Large Size eggs from 64 to 63 grams. Although it represents a minor change, reducing the minimum weight will increase the volume of Extra Large Size eggs relative to Large Size eggs. The consumer would have a greater supply of these eggs to choose from. The largest impact may occur with the Canadian Egg Marketing Agency (CEMA) which markets surplus eggs and which has a price differential between Large Size eggs and Extra Large Size eggs; over time, it is expected that CEMA will adjust its prices so that the effect of this regulatory change would be cost neutral. CPEPC indicates that the amendment would result in greater uniformity among individual eggs within a carton and it would harmonize the Canadian sizes with those in the United States.

The proposed requirement that registered egg stations have separate rooms for ungraded and graded eggs and that the temperature of graded eggs be maintained at 7°C may see that smaller egg stations have to make some modifications to their premises. Further, the decrease in the holding temperature will likely increase refrigeration costs to registered egg stations. The coming into force date for these provisions is delayed by two years in order to allow industry sufficient time to make any necessary changes to their facilities.

Inspection activities are not increased as a result of implementing these proposed amendments, and no additional equipment is required for the Agency. There is not expected to be any impact on staffing levels, cost recovery or cost of enforcement for the CFIA. No new user fees will be instituted as a result of the implementation of these Regulations.

Consultation

Most of the initial consultation that has taken place over the course of the last two years has been with the CPEPC, which is the national industry association representing registered egg stations where the proposed Regulations would be enforced. Extensive comments have been provided by the CPEPC during the development of the proposal and reflect the overall support of that organization for the proposal. The CPEPC did express the view that the temperature requirement at a registered egg station in rooms of graded eggs should only be reduced to 10°C rather than to 7°C. The CFIA consulted with Health Canada on this proposed temperature requirement and it was determined that 7°C is the optimum temperature.

The proposal to reduce the minimum weight for a Canada A Extra Large Size egg from 64 to 63 grams originated with the CPEPC, who would like to see this change implemented as soon as possible. The CEMA Board of Directors also approved the change in minimum category weight for Canada A Extra Large Size eggs. To ensure that the Consumers Association of Canada (CAC) was supportive of the change in the minimum weight for Extra Large Size eggs, the CFIA required that the CPEPC discuss this issue with the CAC and obtain their written confirmation of support.

The CAC was consulted and they have not expressed any objections to the proposal. They indicated that while there are few advantages for consumers in the proposed changes, consumers would not be substantially disadvantaged by them either.

The British Columbia Egg Marketing Agency is the only board to differentiate in price between Extra Large and Large Size eggs. It is expected that the Board would make the small adjustment in egg prices as necessary. They have not expressed any objection.

Health Canada has been consulted regarding the introduction and conditions for the use of pasteurization for shell eggs and is supportive. Health Canada is responsible for the approval of the pasteurization process that would be used by the registered egg station.

The provinces and territories have been advised of this proposal as their respective health authorities may have some involvement in this industry. As provincial egg regulations reference federal egg regulations, some provincial and territorial regulations may in turn have to be amended.

Particular effort has been made to make small producers aware of these proposed changes as they may not be involved with industry associations or provincial marketing boards. Inspectors have relayed information on the proposal to these producers during their routine inspections and the provincial marketing boards and/or industry associations have included such information in their newsletters, which are widely distributed.

Compliance and enforcement

There are no changes to the current compliance and enforcement

measures. The CFIA will ensure compliance with these changes through regular and ongoing egg inspection program and activities.

Inspectors will be trained on the new requirements and will integrate them into their routine inspection activities.

These amendments are not expected to result in any more investigations or de-registrations than currently experienced in the program.

Contact

Richard Robinson, Chief, Livestock Identification and Legislation, Food of Animal Origin Division, Canadian Food Inspection Agency, 159 Cleopatra Drive, Ottawa, Ontario K1A 0Y9, (613) 221-7002 (telephone), (613) 228-6636 (facsimile), rrobinson@inspection.gc.ca (electronic mail).

PROPOSED REGULATORY TEXT

Notice is hereby given that the Governor in Council, pursuant to section 32([see footnote a](#)) of the *Canada Agricultural Products Act*([see footnote b](#)), proposes to make the annexed *Regulations Amending the Egg Regulations*.

Interested persons may make representations with respect to the proposed Regulations within 30 days after the date of publication of this notice. All such representations must cite the *Canada Gazette*, Part I, and the date of publication of this notice and be addressed to Mr. Richard Robinson, Food of Animal Origin Division, Canadian Food Inspection Agency, 159 Cleopatra Drive, Ottawa, Ontario K1A 0Y9 (tel.: (613) 221-7002; fax: (613) 228-6636).

Ottawa, March 7, 2005

EILEEN BOYD
Assistant Clerk of the Privy Council

REGULATIONS AMENDING THE EGG REGULATIONS

AMENDMENTS

1. (1) The definition "dye mark" in section 2 of the *Egg Regulations* ([see footnote 1](#)) is replaced by the following:

"dye mark" means a mark consisting of a deposit of food colour not exceeding 20 mm in diameter that is applied to the large end of an egg at a registered egg station; (*marque de teinture*)

(2) Section 2 of the Regulations is amended by adding the following in alphabetical order:

"Drinking Water Quality Guidelines" means the *Summary of Guidelines for Canadian Drinking Water Quality* — excluding *Supporting Documentation* and references to *Supporting Documentation* — as amended from time to time, prepared by the Federal-Provincial-Territorial Committee on Drinking Water of the Federal-Provincial-Territorial Committee on Environmental and Occupational Health, published on the Web site of the Department of Health; (*Recommandations pour la qualité de l'eau potable*)

"Reference Listing" means the *Reference Listing of Accepted Construction Materials, Packaging Materials and Non-Food Chemical Products* published on the Web site of the Agency, as amended from time to time; (*Liste de référence*)

2. Section 6 of the Regulations is renumbered as subsection 6(1) and is amended by adding the following:

(2) Subject to section 6.1, no person shall market pasteurized eggs in import, export or interprovincial trade as food unless the eggs are graded Canada A and pasteurized at a registered egg station in accordance with a process that

(a) heats the eggs, under controlled conditions, to a temperature and for a time sufficient so that there is a minimum 5-log reduction in salmonella species; and

(b) does not contaminate the eggs.

3. (1) The portion of paragraph 7(2)(b) of the Regulations before subparagraph (i) is replaced by the following:

(b) a copy of the sanitation program for the egg station, indicating

(2) Subparagraph 7(2)(b)(ii) of the Regulations is replaced by the following:

(ii) the equipment and chemical agents to be used to bring about and maintain clean and sanitary conditions,

(3) Subsection 7(2) of the Regulations is amended by striking out the word "and" at the end of paragraph (a) and by adding the following after paragraph (b):

(c) a copy of the quality assurance program for the egg station indicating

(i) the person responsible for carrying out the program, and

(ii) the frequency of sampling and the verification procedures to ensure that the eggs meet the requirements and standards set out in this Part;

(d) a copy of the recall program for eggs that do not meet the requirements and standards set out in this Part, indicating

(i) the person responsible for carrying out the program,

(ii) descriptions of the product coding system, including producer premises codes and the manner in which they are used to track eggs, and

(iii) notification and other procedures to effect a recall;

(e) a copy of the pest control program for the egg station, indicating

(i) the person responsible for carrying out the program, and

(ii) the measures proposed to be taken to safely and effectively control insects, birds, rodents and other vermin;

(f) a copy of the employee training program for the egg station, indicating

(i) the person responsible for carrying out the program, and

(ii) descriptions of training to be provided to personnel who handle eggs and equipment;

(g) a copy of a certificate of microbiological analysis of water to be used at the egg station for drinking or egg preparation that

(i) indicates the source of the water,

(ii) verifies that the water meets the standards for drinking water set out in the Drinking Water Quality Guidelines,

(iii) is dated not more than six months prior to the date of the application, and

(iv) has been issued by a laboratory that is accredited for drinking water analysis by the Standards Council of Canada or by the municipal or provincial government having jurisdiction in the location in which the egg station is located; and

(h) in the case of an egg station that pasteurizes eggs, a copy of the pasteurization program for the egg station, indicating

(i) the person responsible for carrying out the program, and

(ii) the process to be used to pasteurize the eggs.

4. (1) Subsection 7.1(1) of the Regulations is replaced by the following:

7.1 (1) The Director may suspend the registration of a registered egg station

(a) if any of the following situations exists, namely,

(i) the egg station does not meet the requirements of the Act or these Regulations or of any other federal legislation applicable to it,

(ii) the operator does not comply with the provisions of the Act or these Regulations or of any other federal legislation applicable to the operator in respect of their operation of the egg station, or

(iii) the operator has failed to pay a fee prescribed by the *Canadian*

Food Inspection Agency Fees Notice in accordance with the conditions of payment prescribed by that Notice; and

(b) if the operator has failed to remedy any situation identified in the inspection report provided under paragraph (2)(a) by the deadline specified for doing so in accordance with paragraph (2)(b).

(2) Paragraphs 7.1(2)(a) and (b) of the Regulations are replaced by the following:

(a) the operator is provided with a copy of an inspection report prepared by an inspector that identifies a situation set out in paragraph (1)(a);

(b) the inspector has specified, in writing to the operator, the deadline by which the situation must be remedied to avoid suspension; and

(3) Section 7.1 of the Regulations is amended by adding the following after subsection (2):

(2.1) Despite subsections (1) and (2), if public health will be endangered if a registered egg station is allowed to continue operating, the Director may, on delivery to the operator of an inspection report setting out the situation and a notice of suspension of registration, suspend the registration of the station effective immediately.

(2.2) When the registration of a registered egg station is suspended under subsection (2.1), the inspector shall without delay specify in writing to the operator the deadline by which the situation must be remedied to avoid cancellation of that registration.

(4) Subsection 7.1(3) of the Regulations is amended by adding the word "or" at the end of paragraph (a), by striking out the word "or" at the end of paragraph (b) and by repealing paragraph (c).

5. Section 7.2 of the Regulations is replaced by the following:

7.2 (1) The Director may cancel the registration of a registered egg station where

(a) the operator has not remedied the situation,

(i) if the registration of the egg station was suspended under

subsection 7.1(1), within the 30-day period following the day on which the registration was suspended, or

(ii) if the registration of the egg station was suspended under subsection 7.1(2.1), by the deadline referred to in subsection 7.1(2.2);

(b) the owner or operator of the egg station has changed; or

(c) the application for registration contains false or misleading information.

(2) No registration shall be cancelled under subsection (1) unless

(a) the operator was advised of an opportunity to be heard in respect of the cancellation and was given that opportunity; and

(b) a notice of cancellation of registration was delivered to the operator.

6. (1) The portion of paragraph 8(2)(n) of the Regulations before subparagraph (i) is replaced by the following:

(n) have, for the washing, candling, weighing, pasteurizing, packing, marking and storing of eggs, equipment that is

(2) Subsection 8(2) of the Regulations is amended by striking out the word "and" at the end of paragraph (q) and by adding the following after paragraph (r):

(s) if eggs are pasteurized at the egg station, have the equipment necessary for the pasteurization program referred to in paragraph 7(2)(h); and

(t) use, for bringing about and maintaining clean and sanitary conditions in the egg station, only those chemical agents that are included on the Reference Listing or, if not included, that the operator has demonstrated to be equally safe and effective.

(3) Subsection 8(2) of the Regulations is amended by striking out the word "and" at the end of paragraph (s), by adding the word "and" at the end of paragraph (t) and by adding the following after paragraph (t):

(*u*) have one or more separate rooms for the storage of eggs graded Canada A, Canada B or Canada C.

7. (1) Subsection 9(3) of the Regulations is replaced by the following:

(3) Every registered egg station shall be operated in accordance with the programs referred to in paragraphs 7(2)(*b*) to (*f*) and, where applicable, the pasteurization program referred to in paragraph 7(2)(*h*), and up-to-date records shall be maintained in respect of those programs.

(2) Subsection 9(16) of the Regulations is replaced by the following:

(16) The relative humidity in any room where eggs are held in a registered egg station shall be maintained at not more than 85%.

(3) Subsection 9(18) of the Regulations is replaced by the following:

(18) The temperature of any room where eggs are held in a registered egg station shall be maintained at not more than

(*a*) 7°C in the case of a room holding eggs graded Canada A, Canada B or Canada C; and

(*b*) 13°C in the case of a room holding eggs graded Canada Nest Run, ungraded eggs or eggs bearing a dye-mark.

(4) Section 9 of the Regulations is amended by adding the following after subsection (29):

(30) No graded eggs that are returned to a registered egg station may be conveyed from the station as edible eggs other than to a registered processed egg station.

(31) Subject to subsection (32), the water that is used to wash eggs shall

(*a*) be at least 11°C warmer than the eggs and, in the case of a system using recycled water, be maintained at not less than 43°C; and

(b) be maintained at a pH of not less than 10.5.

(32) The Director, at the request of the operator, may designate an alternate minimum temperature or pH level, or both, for the water that is used to wash eggs if the operator demonstrates that there will be no adverse impact on the safety and effectiveness of the egg washing system.

(33) The water that is used to wash eggs shall

(a) contain an effective shell egg cleaning compound for the washing of eggs that is included on the Reference Listing or, if not included, that the operator has demonstrated to be equally safe and effective;

(b) be changed at the end of each shift, and more frequently as may be necessary to avoid contamination of eggs; and

(c) in the case of a recirculating washing system, be maintained at a level that permits a continuous overflow.

8. (1) Paragraph 14(1)(a) of the Regulations is replaced by the following:

(a) the words "eggs" and "œufs";

(2) Paragraph 14(1)(d) of the Regulations is replaced by the following:

(d) the words "Product of Canada" and "Produit du Canada" where the eggs are to be exported out of Canada;

(3) Subsection 14(1) of the Regulations is amended by striking out the word "and" at the end of paragraph (f), by adding the word "and" at the end of paragraph (g) and by adding the following after paragraph (g):

(h) in the case of a container of pasteurized eggs, the words

(i) "Pasteurized" and "Pasteurisé", and

(ii) "Graded Canada A Before Pasteurization" and "Classé Canada

A avant pasteurisation".

9. Paragraphs 19(1)(a) and (b) of the Regulations are replaced by the following:

(a) printed, stamped or stencilled in a central location on one of the four sides of every box, case or other receptacle; or

(b) printed on a tag that is securely affixed in a central location to one of the four sides of every box, case or other receptacle.

10. (1) Paragraph 20(1)(a) of the Regulations is replaced by the following:

(a) subject to paragraph (b), not less than 13 mm in height for the grade name and the words "eggs" and "œufs", "Product of Canada" and "Produit du Canada", "ungraded eggs" or "œufs non classés" and "dyed" or "teints";

(2) Subparagraph 20(1)(b)(ii) of the Regulations is replaced by the following:

(ii) 13 mm in height for the remainder of the grade name, the size designation of the eggs and the words "eggs" and "œufs" and "Product of Canada" and "Produit du Canada"; and

(3) Subsection 20(2) of the Regulations is replaced by the following:

(2) The words "Product of Canada" and "Produit du Canada" shall be marked immediately beneath the words "eggs" and "œufs" on the container.

11. (1) Subsection 21(1) of the Regulations is replaced by the following:

21. (1) The grade name, the size designation and the words "eggs" and "œufs" shall be marked on the top of every tray with an overwrap and every carton, and all other required markings shall be on the top of or on the side of the tray or carton.

(2) Subparagraph 21(2)(b)(ii) of the Regulations is replaced by the

following:

(ii) 3 mm in height for the remainder of the grade name, the size designation of the eggs and the words "eggs" and "œufs".

12. The Regulations are amended by adding the following after section 22.1:

22.2 No labels applied to an egg graded Canada A or Canada B shall cover, in total, an area on the egg larger than 2.5 cm².

13. (1) Paragraphs 30(1)(a) and (b) of the Regulations are replaced by the following:

(a) are graded Canada A or Canada B and bear a dye-mark; or

(b) are graded Canada C.

(2) Section 30 of the Regulations is amended by adding the following after subsection (1):

(1.1) Eggs that are graded Canada Nest Run may be conveyed from one province to another province if the eggs are conveyed to a registered processed egg station or a registered egg station in that other province.

14. Subsection 31(1) of the Regulations is amended by striking out the word "and" at the end of paragraph (g) and by replacing paragraph (h) with the following:

(h) in the case of pasteurized eggs, the information set out in paragraph 7(2)(h) has been submitted in advance to the Executive Director, the pasteurization process meets the requirements set out in paragraphs 6(2)(a) and (b) and the eggs have been pasteurized in accordance with that process; and

(i) the eggs are accompanied by inspection documentation, for presentation to an inspector at the point of inspection, that verifies that the requirements set out in paragraphs (a) to (d) and, if applicable, paragraph (h) have been met.

15. Subparagraph 1(3)(b)(v) of Schedule I to the Regulations is

replaced by the following:

(v) shows stain spots on the shell, if the aggregate area of the stain does not exceed 320 mm² and the shell is otherwise free of dirt, or

16. The portion of item 2 of the table to Schedule III to the Regulations in column II is replaced by the following:

Item	Column II
2.	Egg Weighs Not Less Than 63 g

17. Subsection 2(1) of Schedule IV to the Regulations is repealed.

COMING INTO FORCE

18. (1) Subject to subsection (2), these Regulations come into force on the day on which they are registered.

(2) Subsections 6(3) and 7(3) come into force two years after the day on which these Regulations are registered.

[11-1-o]

[Footnote a](#)

S.C. 2001, c. 4, s. 64

[Footnote b](#)

R.S., c. 20 (4th Supp.)

[Footnote 1](#)

C.R.C., c. 284

NOTICE:

The format of the electronic version of this issue of the Canada Gazette was modified in order to be compatible with hypertext language (HTML). Its content is very similar except for the footnotes, the symbols and the tables.



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