

Regulatory Triage Assessment	
Title of regulatory proposal	The Marketing of Fruit Plant Material (England) Regulations 2016
Lead Department/Agency	Defra
Expected date of implementation	01 January 2017
Origin	EU
Date	29 March 2016
Lead Departmental Contact	George Saunders
Departmental Triage Assessment	Low-cost regulation (fast track)
<p>Rationale for intervention and intended effects</p> <p>The intended effect of this legislation is to:</p> <ul style="list-style-type: none"> • Harmonise detailed requirements for the production and sale of fruit plant propagating material • Introduce specific requirements for identity, quality, labelling and packaging to provide consumer protection. <p>Three EU implementing directives on the marketing of fruit plant propagating material and fruit plants for crop production were agreed in 2014 with a transposition date of 1 January 2017. They give detailed requirements for the production and sale of plants to assure identity and quality. This regulatory triage assessment concerns transposition of these implementing directives into English regulations.</p> <p>The marketing of fruit plant propagating material has in principle been regulated by EU directives since 1992. The underlying directive was revised in 2008 and corresponding UK regulations introduced in 2010. The three implementing directives now introduce specific requirements for identity, quality, labelling and packaging to provide consumer protection. Harmonised standards will facilitate the single market, potentially giving UK businesses easier access to other Member States.</p> <p>The implementing directives take the same underlying approach as longstanding legislation for the marketing of seed and other propagating material of agricultural and vegetable crops, young vegetable plants, ornamental plants and forestry material. They set up a harmonised EU certification scheme with high standards, while also permitting producers to market uncertified material meeting minimum standards. That is, certification is optional, but if the producer wishes to market certified material, it must meet the EU requirements.</p> <p>Many Member States already have voluntary or statutory quality assurance schemes, including the UK with voluntary schemes. As a result, the new EU directives took some time to agree as Member States sought to minimise changes to their existing schemes.</p> <p>Defra's proposal is to transpose the implementing directives, without any gold plating, by remaking the Marketing of Fruit Plant Material Regulations 2010. Practical implementation is being done in close cooperation with businesses, including the representative organisation for producers of highest quality soft fruit material, the Nuclear Stock Association. The objective is to adapt, with as little change as possible, the existing voluntary certification scheme to meet the new statutory requirements.</p> <p>The Nuclear Stock Association and its members market most of the certified soft fruit</p>	

propagating material produced in England. Nuclear stock is the very high health mother plants from which more material is produced for onward fruit production. Their views, those of APHA (Defra's Animal and Plant Health Agency who inspect material for the current voluntary certification scheme), and of the Devolved Administrations, formed the basis of the UK's negotiating positions with the European Commission and other Member States.

Market failure rationale for intervention

There are two main areas of assurance for production of propagating material and fruit plants; identity and plant health. The market does not naturally provide incentives to fully protect plant health due to 'negative externalities'. For instance, if a business produces, exports or imports diseased material it will not face the full cost of that damage, which is felt by wider society (e.g. customers, trading partners). In addition, if a business seeks to protect or enhance the quality of material through its own efforts, then others will also benefit but without having paid for the service, creating incentives to free-ride. For this reason, a system to assure the quality of propagating material is justified. Specific to this policy amendment is the need to address the current asymmetry in the provision of information, where buyers face uncertainty over different assurance standards across the EU. Harmonising certification standards and labelling through EU directives will standardise information and help businesses and consumers make an informed choice about the quality and plant health status of the products they buy.

Viable policy options (including alternatives to regulation)

There is a single realistic policy option: to transpose and implement the directives.

The directives are consumer protection measures giving commercial fruit growers and gardeners access to certified propagating material of assured identity and health status. This reduces risk and facilitates the growing of high quality produce. Little change is expected to current voluntary processes or costs and the option to market material at minimum standards remains.

A non-regulatory approach is not practical for three reasons. Firstly, English producers would be disadvantaged as they would not be able to market material certified explicitly to EU standards, possibly encouraging the import of such material from other EU countries. Secondly, official control of activities undertaken in the harmonised EU certification schemes is mandatory. Thirdly, the UK would be in breach of EU legislation.

Initial assessment of business impact

The proposed implementation would require those businesses wanting to continue or start certifying their fruit plant propagating material to follow the new EU scheme. The analysis assumes that all businesses currently using the voluntary scheme will continue to use the new statutory scheme in the same way, with no new entrants.

The directives assure identity and quality through:

1. Registration of suppliers
2. Registration of new varieties of fruit

3. Requirements for production and marketing of fruit propagating material

4. Requirements for labelling and sealing of marketed material

The only additional burden on businesses is for the labelling and sealing of marketed material, point 4 above. There is no additional burden arising from the other three requirements. For 1, suppliers are already required to register with APHA for plant passporting under the Plant Health Order 2015. For 2 and 3, in practical terms assurance of identity and quality will continue as before, organised by the Nuclear Stock Association with inspections by APHA.

As the regulations will replace the voluntary certification scheme with a statutory scheme, the costs for the voluntary scheme will be replaced by statutory fees.

Statutory charging is being treated separately as part of a review by APHA of its cost calculations for plant health and other inspection work. New fees, to replace charging under the current voluntary scheme, will be introduced later when the review has concluded. The outcome of the review may change the estimated inspection costs explained below, with current expectations being that an increase of about 8% will be necessary to fully recover costs. This increase will occur regardless of any regulatory change.

There are some wider potential benefits, both to the businesses affected and society more broadly. These are set out below in the sections on costs and benefits of the new statutory scheme.

Given that businesses are not obliged to certify propagating material, and can market material at the legal minimum standard, the impacts of this legislation are expected to be negligible. They will apply only to those businesses continuing to participate in the certification scheme. As explained below, the total regulatory impact is expected to provide a small overall benefit.

Background information to set context for the assessment

The businesses affected are all small or micro and a very specific group, those producing certified fruit propagating material. There were about ten producers of certified material in the voluntary Plant Health Propagating Scheme in 2015, with a further five businesses entering material in previous years.

APHA inspects about 350 strawberry and 150 *Rubus* (raspberry and blackberry) stocks each year, covering 2 million strawberry and 0.3 million *Rubus* plants. One of the inspections required for certification is combined with an annual inspection for plant passporting, to reduce burdens on businesses.

The Nuclear Stock Association estimates the annual value of this propagating material as £2.2 million for strawberries and £2.4 million for *Rubus*. This material underpins the production of soft fruit, largely punnets for supermarkets, which is valued by Defra at about £400 million annually.

Due to successful negotiation for EU requirements similar to the existing UK voluntary schemes, the costs and processes for businesses certifying material are expected to change very little. No requirements beyond those in the directives will be introduced. Where the directives give discretion, implementation will be agreed with businesses to ensure it is proportionate and meets their needs at the lowest possible

cost.

Under the current voluntary certification scheme, APHA inspects crops to determine whether or not they meet the required standards. This currently costs about £60,000 a year, depending on the number of crops.

The current voluntary scheme in England, the Plant Health Propagation Scheme, is managed by the Nuclear Stock Association, with estimated costs of £14,000 a year, making a total of £74,000. This will not change as a result of the new regulations.

The Nuclear Stock Association also arranges testing of nuclear stock for the most economically important virus diseases. The same tests are required by the new directives, so there will be no change in costs, although these vary in total from year to year according to the number of stocks entered. Stock figures for previous years have been requested from industry but the information has not been received.

Additional costs to businesses from the new statutory scheme

As explained above, the costs of the statutory scheme will remain much as now, with the exception of mandatory official labelling of certified material. The Nuclear Stock Association is aware of this additional cost and has provided an estimate below. There are no other familiarisation costs.

Official labels will provide prescribed information for buyers and the intention is for labelling to be done by producers under official supervision rather than directly by officials. The design of the label is at national discretion and will be agreed between the Nuclear Stock Association and APHA, limiting costs through as simple a format as possible.

The Nuclear Stock Association estimates the additional cost of labelling to be £2,500 a year in total. This is based on the assumption that producers already label their material, with this additional cost being for official labels which provide the statutory information, over-printed and attached by the producer.

Reduced costs to businesses from the new statutory scheme

The number of inspections required for some strawberry crops is lower in the new EU certification scheme than in the current voluntary scheme. This means reduced costs for official inspections, with APHA estimating a reduction of 70 hours and a saving of £4,000 a year.

In addition, the sampling and testing of some strawberry material for three diseases in the current voluntary scheme will not be required in the new statutory scheme. Sampling and testing will in future be done in cases of doubt only. The current total annual cost of this sampling and testing is about £3,800, with APHA estimating a saving of about £2,500 a year.

Both the £4,000 and the £2,500 per year savings will be passed directly to businesses, through reduced APHA costs. There are no further savings to businesses because they do not need to be present for inspections.

Costs to UK Government

APHA's costs are primarily for the inspections of crops and propagating material as

described above. These costs will be recovered through new statutory fees.

Summary of total costs to UK businesses

Since businesses are not required to certify fruit propagating material, it is assumed they will do so only if the benefits outweigh the costs. Businesses can choose instead to market material at the legal minimum standard if the costs of certification are higher than the benefits. The **net annual cost to UK businesses is expected to be around minus £4,000¹** (i.e. a small overall benefit). Over a 10 year period, this equates to a **Net (Present Value of) Benefits of around £34,400**. The **Equivalent Annual Net Direct Cost to Business (EANCB) will be around minus £3,630** (i.e. a small overall benefit to businesses), when expressed in 2014 prices and 2015 values as prescribed by the latest BIS Impact Assessment Calculator.

Given that there will be a wider review of charges by APHA and transition to full cost recovery, these savings will be subsumed within and inform this review.

Additional benefits from the new statutory scheme

The main benefit of the implementing directives is harmonisation of standards, which help to protect an industry worth £400m, as stated in the background information. The industry considers this to be a benefit as it will facilitate trade within the EU. The new scheme will increase transparency for buyers of fruit propagating material through the official labels.

Non-monetised benefits include a relaxation of isolation distances used for production of high grade material, the introduction of a certification scheme for *Vaccinium* species (blueberry), and the possibility of re-introducing fruit tree material into certification. The costs associated with these certification schemes are included within the additional costs above, stated for labelling and inspections. A *Vaccinium* scheme was already possible under the voluntary scheme, but preparation for the statutory scheme has provided an incentive to the industry and APHA to develop one.

The industry is closely involved to ensure that any national discretion in the directives is used to the UK's advantage, to make a smooth transition to the new requirements, and to minimise any cost increases.

Rationale for triage rating

Summary of Defra's rationale for selecting a fast-track appraisal route.

The total costs of this activity, whether voluntary or statutory, are considerably less than the stipulated maximum of £1,000,000 a year. The cost of the new statutory scheme is not expected to exceed the cost of the current voluntary scheme. The current costs of the UK's voluntary scheme are £74,000 a year on average and the change to the harmonised EU standards, with a slightly lower level of stringency for UK businesses, results in a small expected net saving each year. This small saving will be subsumed within changes as part of a wider review of charges.

¹ This is a net saving comprised of £2,500 additional labelling costs minus £6,500 of inspection savings

OI3O status: This scheme is out of scope of OI3O because it derives from EU Directives with no gold plating.

Departmental signoff (SCS):	Nicola Spence	Date: 12.04.16
Economist signoff (<i>senior analyst</i>):	R Young	Date: 30.03.16
Better Regulation Unit signoff:	M Siddique	Date: 05.04.16