

**UPDATE ON BSE TESTING IMPLEMENTATION REVIEW GROUP**

**Executive Summary**

1. This paper updates the Board on the current status of the work of the Implementation Review Group (IRG) set up by the Agency to oversee implementation of the BSE testing system and summarises the recent incidents in relation to the BSE testing controls.
2. The Board is invited:
  - to note that, in the light of the recent incidents in relation to the testing controls, a decision has been taken at executive level to continue the work of IRG to enable it to review the causes of the incidents and ensure corrective action is taken; and
  - to endorse this decision.

**TSE Division**

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**UPDATE ON BSE TESTING IMPLEMENTATION REVIEW GROUP**

**Issue**

1. The need for the remit of the Implementation Review Group, which is overseeing implementation of the BSE testing system, to be extended beyond the first 12 months of operation of the system.

**Strategic Aims**

2. This work links to the Agency's aim to protect consumers by implementing and enforcing proportionate and effective BSE controls.

**Background**

3. With effect from 7 November 2005, the over thirty months (OTM) rule, which banned the entry of almost all such animals into the UK food supply, was replaced by a BSE testing regime for OTM cattle. Since this change, OTM cattle have become once more eligible for the food supply provided they test negative for BSE. This move did not, however, apply to cattle born or reared in the UK before 1 August 1996, which remain permanently excluded from the food supply.
4. The move to BSE testing followed agreement by the Board in August 2005, on the basis of recommendations from the Independent Advisory Group chaired by Professor Patrick Wall, that a reliable BSE testing regime for OTM cattle had been successfully designed and trialled. At the same time, as recommended by Professor Wall's group, the Board agreed that an OTM testing Implementation Review Group (IRG) be set up to oversee implementation of the BSE testing system for its first 12 months of operation and to report.
5. In line with Professor Wall's recommendations, the IRG is chaired by the FSA and involves all the UK Government Departments concerned and the MHS. It also includes two independent members representing consumers and the meat industry.
6. IRG has so far held 15 meetings. It has kept a close watch on the flow of data and reports from the continuing monitoring and audit of the testing system, and has provided independent scrutiny of the management of the system. Its interim report of the first 6 months of operation of the testing system was considered by the Board at its July 2006 meeting.
7. A timeline of developments on OTM testing is annexed.

## **Current Status of IRG's Work**

8. IRG's remit to oversee the first 12 months of operation of the BSE testing system should have been completed in November 2006. A number of incidents have however occurred recently in relation to the testing controls (particularly since around the end of the first year of operation of the system) (see paragraph 12 below).
9. One of the tasks with which IRG was charged by the Board is "to review information and reports received (including audit reports) and agree action where appropriate". The Chief Executive has therefore decided to ask IRG to continue its work so that it can review reports of these incidents and ensure that appropriate corrective action is taken.
10. IRG has also still to consider a report on an independent verification of the FSA's audit of the OTM testing regime and to complete its overview of the cattle identification arrangements.
11. This extension to IRG's work has naturally delayed production of its final report to the Board on implementation of the testing system. This will now be completed once IRG has been able to consider the recent incidents and their implications for the future operation of the testing system. The intention is that the report will then be discussed by the Food Advisory Committees for Scotland, Wales and Northern Ireland before it is put to the Board. This process is now expected to be completed for the Board's open meeting in June 2007.

## **The Recent Incidents**

12. The recent incidents<sup>1</sup> referred to above fall into 3 categories:

(a) apparent lack of correlation between brain sample and carcass

- ABP Newry (DNA testing indicated that 2 samples were not taken from the corresponding carcasses)
- West Devon Meat Ltd (one more brain sample sent to the laboratory for BSE testing than the number of OTM cattle slaughtered – one of the sample pots sent containing two samples)

(b) failure to take a brain sample from an OTM animal at the abattoir

- Dunbia – misidentification of an OTM animal at the abattoir as another animal aged under 30 months

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<sup>1</sup> links to the FSA web report on each incident are included in the Annex

- Trott's Family Abattoir – an OTM animal, delivered to an abattoir not approved to slaughter OTM cattle, not recognised as OTM
- ABP Shrewsbury – an OTM animal, delivered to an abattoir approved to slaughter OTM cattle, recognised as OTM but not sampled

(c) allowing an animal probably born before 1 August 1996 into the food supply

- “misidentified cow” case - probable misidentification on a farm in Powys of an animal born before 1 August 1996 as one born after that date.

13. In the incidents in category (a), the meat from the affected animals was either excluded from the food supply (ABP Newry) or retained and allowed into the food supply only when confirmed negative for BSE (West Devon Meat). However the incidents in categories (b) and (c) resulted in meat entering the food supply in breach of the testing rules (in the “misidentified cow” case, an animal born before August 1996 was treated as an eligible OTM animal and tested negative for BSE; the other cases resulted in OTM animals entering the food supply untested).

14. The full facts of all the cases are not yet known. One investigation has been completed (ABP Newry) and three investigations are underway with a view to determining whether or not any prosecution should be brought. Decisions on whether the two remaining cases should be referred for investigation are awaited. The prosecuting authorities are the respective territorial rural affairs departments. The investigation report relating to ABP Newry has been released to IRG following a decision by the Public Prosecution Service in Northern Ireland not to proceed, on the basis that on the evidence available a prosecution would be unlikely to succeed. The reports of the investigations into the other incidents remain confidential at this stage.

15. From the information that is available, however, it would appear that those incidents which resulted in ineligible meat entering the food supply were not caused by any major flaw in the testing system. Rather, the indications are that in each case a number of checks in the system failed due to human error, any one of which, if operated correctly, could have avoided the failure. It would appear also that actions or omissions on the part of both the food business operator and the supervising officials have contributed to the break down in control.

16. IRG will review each case in detail in order to ensure that the reasons for the break down in control are clearly established, the lessons learned and appropriate corrective action is implemented.

### **Other Developments**

17. Following a meeting with stakeholders in January, at which Lord Rooker stressed the importance of the OTM controls to all concerned, Defra have convened two

groups of representatives of the industry in UK, separately for the farming and abattoir interests, to consider how further incidents could be avoided. The farming group is to focus particularly on the issue of the continued consignment of cattle born before August 1996 to fresh meat abattoirs (about 5 per week on average throughout the UK). The first meetings of these groups are scheduled for February.

### **Recommendation**

18. The Board is invited to:

- **note** that, in the light of the recent incidents in relation to the testing controls, a decision has been taken at executive level to continue the work of IRG to enable it to review the causes of the incidents and ensure corrective action is taken; and
- **endorse** this decision.

## OTM Testing Implementation: TIME LINE

<b>Event</b>	<b>FSA Board</b>	
	<p><b>August 2005</b> Board agreed</p> <ul style="list-style-type: none"> <li>➤ to advise ministers that BSE testing regime had been successfully designed and trialled, and</li> <li>➤ to set up Implementation Review Group to oversee first 12 months and an independent audit of first 6 months of OTM Testing</li> </ul>	<p>Paper and Annexes:  <a href="http://www.food.gov.uk/multimedia/pdfs/fsa050802.pdf">www.food.gov.uk/multimedia/pdfs/fsa050802.pdf</a>  <a href="http://www.food.gov.uk/multimedia/pdfs/fsa050802a.pdf">www.food.gov.uk/multimedia/pdfs/fsa050802a.pdf</a>  <a href="http://www.food.gov.uk/multimedia/pdfs/fsa050802b.pdf">www.food.gov.uk/multimedia/pdfs/fsa050802b.pdf</a>  <a href="http://www.food.gov.uk/multimedia/pdfs/fsa050802c.pdf">www.food.gov.uk/multimedia/pdfs/fsa050802c.pdf</a>  <a href="http://www.food.gov.uk/multimedia/pdfs/fsa050802d.pdf">www.food.gov.uk/multimedia/pdfs/fsa050802d.pdf</a>                      Minutes (Agenda Item 4)  <a href="http://www.food.gov.uk/aboutus/ourboard/boardmeetings/boardmeetings2005/boardmeeting081505/boardmins15aug05">www.food.gov.uk/aboutus/ourboard/boardmeetings/boardmeetings2005/boardmeeting081505/boardmins15aug05</a></p>
	<p><b>September 2005</b></p> <ul style="list-style-type: none"> <li>➤ Board agreed proposals for the Implementation Review Group</li> </ul>	<p>Paper  <a href="http://www.food.gov.uk/multimedia/pdfs/info050901.pdf">www.food.gov.uk/multimedia/pdfs/info050901.pdf</a>                      Minutes (Agenda Item 8)  <a href="http://www.food.gov.uk/aboutus/ourboard/boardmeetings/boardmeetings2005/boardmeeting091505/boardmins15sep05">www.food.gov.uk/aboutus/ourboard/boardmeetings/boardmeetings2005/boardmeeting091505/boardmins15sep05</a></p>
<p><b>7 November 2005</b> OTM Rule replaced by OTM Testing Regime  <a href="http://www.food.gov.uk/news/newsarchive/2005/nov/newbseinfo">www.food.gov.uk/news/newsarchive/2005/nov/newbseinfo</a></p>		
	<p><b>December 2005</b></p> <ul style="list-style-type: none"> <li>➤ Progress Report.</li> </ul>	<p>Paper &amp; Annex  <a href="http://www.food.gov.uk/multimedia/pdfs/fsa051207.pdf">www.food.gov.uk/multimedia/pdfs/fsa051207.pdf</a>  <a href="http://www.food.gov.uk/multimedia/pdfs/fsa051207a.pdf">www.food.gov.uk/multimedia/pdfs/fsa051207a.pdf</a>                      Minutes (para 76 and 77)  <a href="http://www.food.gov.uk/aboutus/ourboard/boardmeetings/boardmeetings2005/boardmeeting120805/minutes8dec05">www.food.gov.uk/aboutus/ourboard/boardmeetings/boardmeetings2005/boardmeeting120805/minutes8dec05</a></p>
<p><b>01.01.06</b> New rules for Emergency Slaughter Cattle  <a href="http://www.food.gov.uk/news/newsarchive/2005/oct/cattleguidance">www.food.gov.uk/news/newsarchive/2005/oct/cattleguidance</a></p>		
<p><b>23.01.06</b> OTMS replaced by OCDS  <a href="http://www.defra.gov.uk/farm/livestock/schemes/ocds.htm">www.defra.gov.uk/farm/livestock/schemes/ocds.htm</a></p>		
<p><b>03.05.06</b> EU export Ban lifted  <a href="http://www.defra.gov.uk/news/2006/060503a.htm">www.defra.gov.uk/news/2006/060503a.htm</a></p>		
	<p><b>July 2006</b> Interim Report of the [Implementation] Review Group, including independent review of the first six months.</p> <ul style="list-style-type: none"> <li>➤ Board agreed to advise Ministers that implementation had proceeded satisfactorily.</li> </ul>	<p>Paper:  <a href="http://www.food.gov.uk/multimedia/pdfs/fsa060706i.pdf">www.food.gov.uk/multimedia/pdfs/fsa060706i.pdf</a>                      Minutes (Agenda Item 3.5)  <a href="http://www.food.gov.uk/multimedia/pdfs/board13jul06mins.pdf">www.food.gov.uk/multimedia/pdfs/board13jul06mins.pdf</a></p>

<b>Event</b>	<b>FSA Board</b>
<p><b>July 2006</b>  <u>ABP Newry</u>: Authenticity of two brain stem samples sent for BSE testing: Monthly BSE controls report for July 2006 published 15.08.06  <a href="http://www.food.gov.uk/news/newsarchive/2006/aug/srmupdate0708">www.food.gov.uk/news/newsarchive/2006/aug/srmupdate0708</a></p>	
<p><b>10.08.06</b>  Confirmation of First BSE +ve identified through the testing regime for OTM cattle slaughtered for human consumption in GB<sup>1</sup>  <a href="http://www.defra.gov.uk/animalh/bse/controls-eradication/barbinfo/180297.pdf">www.defra.gov.uk/animalh/bse/controls-eradication/barbinfo/180297.pdf</a></p>	
<p><b>15.09.06</b>  Confirmation of Second BSE +ve identified through the testing regime for OTM cattle slaughtered for human consumption in GB<sup>1</sup>  <a href="http://www.defra.gov.uk/animalh/bse/controls-eradication/barbinfo/100999.pdf">www.defra.gov.uk/animalh/bse/controls-eradication/barbinfo/100999.pdf</a></p>	
<p><b>25.09.06</b>  Confirmation of Third BSE +ve identified through the testing regime for OTM cattle slaughtered for human consumption in GB<sup>1</sup>  <a href="http://www.defra.gov.uk/animalh/bse/controls-eradication/barbinfo/120802.pdf">www.defra.gov.uk/animalh/bse/controls-eradication/barbinfo/120802.pdf</a></p>	
<p><b>25.10.06</b>  <u>Dunbia</u> - Untested OTM - Food Alert issued 10.11.06  <a href="http://www.food.gov.uk/news/newsarchive/2006/nov/dunbia">www.food.gov.uk/news/newsarchive/2006/nov/dunbia</a>  <a href="http://www.food.gov.uk/enforcement/alerts/2006/nov/dunbia">www.food.gov.uk/enforcement/alerts/2006/nov/dunbia</a></p>	
<p><b>19.10.06</b>  <u>Ensors Abattoir Ltd</u> – UK born/reared before 08/96  Misidentified cow - BSE Test -ve - BSE News Item published 29.01.07  <a href="http://www.food.gov.uk/news/newsarchive/2007/jan/miscow">www.food.gov.uk/news/newsarchive/2007/jan/miscow</a></p>	
<p><b>01.11.06</b>  <u>Chris Trott &amp; Family Abattoir</u> – Untested OTM-  BSE News Item published 12.12.06  <a href="http://www.food.gov.uk/news/newsarchive/2006/dec/untestedotm">www.food.gov.uk/news/newsarchive/2006/dec/untestedotm</a></p>	
<p><b>24.11.06</b>  <u>West Devon Meat Ltd</u> – Extra Sample -  Chief Executive's Report to FSA Board 07.12.06  <a href="http://www.food.gov.uk/multimedia/pdfs/harwoodboardreportdec06.pdf#page=4">www.food.gov.uk/multimedia/pdfs/harwoodboardreportdec06.pdf#page=4</a></p>	
<p><b>30.11.06</b>  <u>ABP Shrewsbury</u> – Untested OTM –  BSE News Item published 24.01.07  <a href="http://www.food.gov.uk/news/newsarchive/2007/jan/untestedotm">www.food.gov.uk/news/newsarchive/2007/jan/untestedotm</a></p>	

<sup>1</sup> Only BSE Test –ve OTM cattle may enter the food supply. As these cattle were BSE Test +ve, the carcasses and all associated body parts were disposed of by incineration, in addition to those of the carcass before and two after on the slaughter.