

**EXPLANATORY MEMORANDUM TO**  
**THE RICE PRODUCTS FROM THE UNITED STATES OF AMERICA**  
**(RESTRICTION ON FIRST PLACING ON THE MARKET) (ENGLAND)**  
**(REGULATIONS) 2008**

**2008 No. 622**

1. This explanatory memorandum has been prepared by the Food Standards Agency and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Description**

- 2.1 These Regulations implement the emergency control measures set out in Commission Decision 2006/601/EC, as amended, (the Commission Decision) to deal with the import of long grain rice from the USA which contain the unauthorised genetically modified LLRICE601

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

- 3.1 The Regulations will be made on 6 March 2008 and will come into force on 7 March 2008. They will therefore breach the 21-day rule. The reason for the breach is that Commission Decision 2008/162/EC which amended the Commission Decision was notified to Member States on 26 February and comes into force on notification. Implementation of the Commission Decision requires the Regulations to be brought into force as soon as possible.

4. **Legislative Background**

- 4.1 The instrument is made and laid under section 2(2) of the European Communities Act 1972.
- 4.2 These Regulations implement Commission Decision 2006/601/EC on emergency measures regarding the non-authorised genetically modified LLRICE601 as last amended by Commission Decision 2008/162/EC.

5. **Extent**

- 5.1 This instrument applies to England.
- 5.2 There will be separate but parallel legislation in Scotland, Wales and Northern Ireland.

## **6. European Convention on Human Rights**

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required

## **7. Policy Background**

- 7.1 In mid August 2006 the US authorities notified the EC that traces of unauthorised LLRICE601 had been detected in samples of commercial rice seed and may have entered the food and feed supply. The level of the unauthorised rice seeds detected in the contaminated samples is very low around 0.1%. Later that month the Commission introduced emergency measures to prevent the importation of unauthorised GM material into the EU. The Commission adopted and published a Commission Decision which was amended at the end of August 2006. The measures were introduced in the UK by a declaration under Official Food and Feed Control legislation. The Decision specified that any consignment of long grain rice from the USA can only enter the EU market if it has been analysed and certified to contain no detectable materials from LLRICE601.
- 7.2. The Commission sought further information from Bayer CropScience, who had developed the LLRICE601 variety, including details of the detection method and reference materials (i.e. samples of the rice variety). The LLRICE601 variety contains a gene conferring herbicide tolerance. EFSA's GMO Panel evaluated a safety dossier from Bayer CropScience and issued a statement on 15 September 2006. It concluded that, while the data were insufficient to conduct the full risk assessment that would be required for authorisation of LLRICE601, the consumption of imported long grain rice containing trace levels of LLRICE601 is not likely to pose an imminent safety concern to humans or animals.
- 7.3 As regards long grain rice and rice products from USA, already on the market, Member States are required to take appropriate measures, including random sampling and analysis, to verify the absence of LLRICE601. Results which demonstrate the presence of LLRICE601 must be notified to the Commission through the Rapid Alert System for Food and Feed.
- 7.4 The Commission adopted amendments to the existing Decision on 6 November 2006 requiring all long grain rice from USA to be sampled and re-tested according to a defined protocol at the port of entry to the EU. This followed concerns of the Commission that unauthorised GMLLRICE601 could still be present in some batches of bulk long grain rice originating in USA. These amendments are contained in Commission Decision 2006/754/EC.
- 7.5 The Commission Decision was further amended in February 2008 in the light of new information from the USA, where the industry had implemented a control programme that aimed to avoid the presence of contaminated rice in the 2007 harvest. The US testing methods had also been amended to match the sensitivity of the protocol used by enforcement authorities in the EU. As a result, the certification requirements were updated and the requirement for repeat testing at the point of import into the EU was removed. These amendments are contained in Commission Decision 2008/162/EC, which was notified to Member States on 26 February 2008.

7.6 As this is an emergency control measure, there has been no public consultation on the draft statutory instrument. The rice trade have been sent a copy of the Decision.

**8. Impact**

8.1 An abridged Impact Assessment has been prepared for this instrument and is attached.

**9. Contact**

9.1 Alison Asquith at the Food Standards Agency, telephone 020 7276 8596 or e-mail [alison.asquith@foodstandards.gsi.gov.uk](mailto:alison.asquith@foodstandards.gsi.gov.uk) can answer queries about the Instrument.

## Summary: Intervention & Options

<b>Department /Agency:</b> <b>FOOD STANDARDS AGENCY</b>	<b>Title:</b> <b>Impact Assessment of The Rice Products from the United States of America (Restriction on First Placing on the Market) (England) Regulations 2008</b>	
<b>Stage:</b> Implementing SI	<b>Version:</b> 1	<b>Date:</b> 4 March 2008
<b>Related Publications:</b> Commission Decision 2006/601, as amended by Commission Decisions 2006/754/EC and 2008/162/EC		

### Available to view or download at:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:052:0025:00>

**Contact for enquiries:** Dr Sandy Lawrie

**Telephone:** 020 7276 8565

### What is the problem under consideration? Why is government intervention necessary?

In 2006 EU imports of long grain rice from the US were found to contain an unauthorised GM rice, LL RICE 601. As a result, Commission Decision 2006/601 put into place emergency controls requiring all consignments of US rice to be sampled and tested at the point of import into the EU. This is no longer necessary because of changes to the US testing regime. Commission Decision 2006/754/EC amends Commission Decision 2006/601/EC and places the responsibility for testing and certifying rice as free from LL RICE 601 on the exporter rather than the importer.

### What are the policy objectives and the intended effects?

The policy objective is to ensure that rice imported into the EU does not contain the unauthorised GM rice LL RICE 601. There is a continued requirement for such imports to be sampled and certified prior to export from the US. It has been possible to remove the need for repeat testing at the point of import because the US authorities have adapted their testing methods to match the sensitivity of the tests used by enforcement bodies in the EU. The revised import controls minimise the barrier to trade while still ensuring that illegal GM rice is not imported into the EU.

### What policy options have been considered? Please justify any preferred option.

Option 1 - Do nothing.(retaining the existing import controls)

Option 2 - Remove the requirement for duplicate testing at the point of import to the EU

Option 2 is the preferred option. It removes unnecessary burdens on EU importers and enforcement bodies, as a result of certificates issued by US laboratories now being based on a suitably sensitive testing method. In addition, certificates will now be endorsed by GIPSA. an Agency of the US Department of Agriculture.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? August 2008

**Ministerial Sign-off** For final proposal/implementation stage Impact Assessments:

*I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) the benefits justify the costs.*

Signed by the responsible Minister:

**Dawn Primarolo** .....Date: **6th March 2008**

## Summary: Analysis & Evidence

<b>Policy Option:</b>	<b>Description:</b>
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<b>COSTS</b>	<b>ANNUAL COSTS</b>	Description and scale of <b>key monetised costs</b> by 'main affected groups'
	<b>One-off</b> (Transition) <b>Yrs</b>	
	<b>£ 0</b>	
	<b>Average Annual Cost</b> (excluding one-off)	
<b>£ 0</b>	<b>Total Cost (PV)</b>	<b>£ 0</b>
Other <b>key non-monetised costs</b> by 'main affected groups' None		

<b>BENEFITS</b>	<b>ANNUAL BENEFITS</b>	Description and scale of <b>key monetised benefits</b> by 'main affected groups'
	<b>One-off</b> <b>Yrs</b>	
	<b>£ 0</b>	
	<b>Average Annual Benefit</b> (excluding one-off)	
<b>£ 0</b>	<b>Total Benefit (PV)</b>	<b>£ 0</b>
Other <b>key non-monetised benefits</b> by 'main affected groups' The amended controls may result in UK rice mills resuming the previous high level of trade in the US long grain rice, which is particularly prized for its cooking qualities. This normalisation of the market could result in reduced costs and/or an increase in the quality of rice and choice available to UK consumers.		

Key Assumptions/Sensitivities/Risks a

Price Base Year	Time Period Years	<b>Net Benefit Range (NPV)</b> £	<b>NET BENEFIT (NPV Best estimate)</b> £
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What is the geographic coverage of the policy/option?	England				
On what date will the policy be implemented?	Immediately				
Which organisation(s) will enforce the policy?	Local Authorities				
What is the total annual cost of enforcement for these organisations?	£ 0				
Does enforcement comply with Hampton principles?	Yes				
Will implementation go beyond minimum EU requirements?	No				
What is the value of the proposed offsetting measure per year?	£ n/a				
What is the value of changes in greenhouse gas emissions?	£ n/a				
Will the proposal have a significant impact on competition?	No				
Annual cost (£-£) per organisation (excluding one-off)	<table style="width: 100%; border: none;"> <tr> <td style="width: 25%; text-align: center;">Micro <b>0</b></td> <td style="width: 25%; text-align: center;">Small <b>0</b></td> <td style="width: 25%; text-align: center;">Medium <b>0</b></td> <td style="width: 25%; text-align: center;">Large <b>0</b></td> </tr> </table>	Micro <b>0</b>	Small <b>0</b>	Medium <b>0</b>	Large <b>0</b>
Micro <b>0</b>	Small <b>0</b>	Medium <b>0</b>	Large <b>0</b>		
Are any of these organisations exempt?	<table style="width: 100%; border: none;"> <tr> <td style="width: 25%; text-align: center;">No</td> <td style="width: 25%; text-align: center;">No</td> <td style="width: 25%; text-align: center;">N/A</td> <td style="width: 25%; text-align: center;">N/A</td> </tr> </table>	No	No	N/A	N/A
No	No	N/A	N/A		

<b>Impact on Admin Burdens Baseline</b> (2005 Prices)				(Increase - Decrease)
Increase	£ 0	0	0	<b>Net</b> <b>0</b>

Key:      Annual costs and benefits: Constant Prices      (Net) Present Value

## Evidence Base (for summary sheets)

These measures relax the current controls on US rice by removing the need for mandatory sampling and testing of rice imports at the point of entry into the EU. These controls have been in place since November 2006, when they were introduced to ensure that imports did not contain any illegal, unauthorised GM rice.

There is a continued requirement for such imports to be sampled and certified prior to export from the US. It has been possible to remove the need for repeat testing at the point of import because the US authorities have adapted their testing methods to match the sensitivity of the tests used by enforcement bodies in the EU.

The introduction of the EU border checks led to a virtual cessation in trade with the US during 2007. The shortfall in supplies of long grain rice has been made up by increased trade with other countries.

Following this new change, it is likely that trade with the US will resume and it may (eventually) return to the level it was at before this contamination incident came to light. If this happens, imports of long grain rice from other countries will reduce accordingly. Prior to this incident, almost all US rice imports were destined for rice mills, of which there are 8 in the UK.

The amended controls may result in UK rice mills resuming the previous high level of trade with the US, as US long grain rice is particularly prized for its cooking qualities. This normalisation of the market will therefore result in increased competition and reduced costs, and/or an increase in the quality of rice and choice available to UK consumers.

As at present, imports still have to be accompanied by a certificate of analysis which the port authorities will need to check. The change to the import controls does not therefore place any new costs on importers or enforcement authorities.

(There will be a small saving for any UK companies who are currently involved in the very low level of trade with the US, as they will no longer need to pay for the sampling and testing of each consignment at the point of import)