



## Frequently Asked Questions about the Egg Products Inspection Act Amendments (S. 820/H.R. 1731)

### **Why should the federal government establish standards for the egg industry?**

Because the alternative is a growing patchwork of inconsistent state standards that will restrict interstate movement of eggs, distort competition and put many farmers out of business. The United Egg Producers (UEP), which represents over 90% of U.S. egg production, favors a shift to enriched colony cages, similar to those adopted by the European egg industry. However, only through federal action can a uniform, mandatory national standard be achieved. This proposal would provide farmers with ample time to make investments in improved housing systems, in intervals, over the next 15 to 16 years, with the assurances that all will face the same requirements by the end of the phase-in period and that the new equipment will be recognized as adequate under federal law. For some facilities, the transition can be accomplished during the normal course of replacing aged equipment.

### **Does this bill affect others forms of agriculture?**

No. This proposal deals only with egg-laying hens, and has no impact on others in animal agriculture, as the legislation explicitly notes. §1036A(g)(6) specifies, "Other livestock production.—The provisions of this chapter apply only to commercial egg production, and do not apply to pork, beef, turkey, dairy, broiler chicken, veal, or other livestock or poultry production." It amends the Egg Products Inspection Act of 1970, a federal statute that already regulates the sale of eggs and does not reach into other agricultural products. This is a matter of self-determination for the egg industry. If this legislation is blocked by other livestock organizations unfamiliar with the science or economics of egg production, egg farmers face the very real prospect of going out of business. For egg farmers, the stakes couldn't be higher.

### **Does it set a precedent that other agricultural products might be regulated next?**

No. Other sectors of animal agriculture have long enjoyed uniform federal standards, and there is no precedent here. Eggs have always been regulated differently from other animal agriculture industries—for instance, the Food and Drug Administration enforces on-farm food safety regulations for eggs but not for other livestock sectors. For decades, the meat and poultry industries have insisted on strict preemption of state laws under the Federal Meat Inspection Act (FMIA), the Poultry Products Inspection Act, and other laws such as the Nutrition Labeling and Education Act. The egg industry should have the same right to uniform federal standards as other agriculture sectors. The preemption language in this legislation mirrors that in the FMIA. Moreover, the unique coalescing of goals shared by egg farmers and animal welfare advocates does not in any way bind Congress to adopt reforms for another industry that isn't similarly seeking such reforms.

### **Are these standards based on sound science?**

Yes. The leading scientists familiar with the egg industry embrace the legislation and urge a transition to enriched colony cages. Dr. Jeffrey D. Armstrong, an animal scientist and president of California Polytechnic State University in San Luis Obispo, calls the proposal the "best all around" for hen welfare, and says further that "the science behind colonies is solid." UEP's scientific advisory committee, comprising experts from Purdue University, the American Veterinary Medical Association and other prestigious institutions, has reviewed enriched cages and has noted that they combine the advantages of both conventional cages and cage-free systems.

### **How does this bill advance animal welfare?**

Scientific research shows that increasing the amount of space per hen and providing the hens with environmental enrichments (e.g., nesting boxes, perches, and scratching areas) improves their welfare, which is advantageous for hens and farmers alike. The UEP already disallows feed-withdrawal molting among UEP Certified members, as science shows that it is detrimental to hens' welfare. And high ammonia rates in poultry houses can lead to respiratory infection in hens and people, so controlling ammonia levels is important for the health of hens and farmers.

### **Why doesn't the egg industry just adopt standards on its own?**

The UEP plans to incorporate these proposed standards into its own UEP Certified guidelines, but those standards are voluntary for farmers. Federal legislation is the only way to ensure a uniform baseline for laying hen standards within the U.S. egg industry, and it's the only way to preempt the state laws that call for conflicting standards.

**Will there be any cost to the federal government?**

The CBO estimate for S. 3239/H.R. 3798 (parallel legislation in the 112<sup>th</sup> Congress) was zero. The Egg Products Inspection Act of 1970 already regulates the sale of eggs and egg products in interstate commerce; this legislation would amend that federal law, and is not expected to create any new government programs or add substantial costs to the federal government. The egg industry would be responsible for financing the investments in new housing structures for its egg-laying hens, spending an anticipated \$4 billion of its own capital during the phase-in period. USDA would conduct a survey to determine whether the changes are being implemented, but would not have substantial costs for administration or enforcement.

**Will the cost of eggs increase?**

Since the changes proposed by the federal legislation would be phased in over the next 15 to 16 years, many during the normal course of replacing aged equipment, any consumer cost increases are expected to be minor. An economic study conducted by the independent research group Agralytica indicates that the changes are expected to increase consumer prices by less than 1 penny per egg, spread out over the lengthy phase-in period. This very small increase, which will only happen years into the future, is much less than natural price fluctuations based on a variety of other factors such as energy, feed, and distribution costs. What's more, studies show that enriched colony cages can be better for production than conventional cages, as the hens have lower mortality and higher productivity, making them more economically efficient for egg farmers. These improvements were noted in a 1/19/12 Feedstuffs report on an American egg producer using enriched colony cages: "In the colony house, mortality was 4.22%, better than the 7.61% in the conventional cage; eggs laid per hen were 421, versus 399; average case weight was 49.4 lb., versus 47.93 lb."

**Why should we preempt the state laws on this issue?**

Increasingly, these state laws are being applied to out-of-state eggs. Eggs are a national commodity. Egg farmers need a level playing field nationwide, and need certainty about what standards are going to be required in the coming years so they can make the necessary investments in their businesses—not face different, costly rules in all 50 states, which is where we are heading if we don't pass this legislation. It's a hardship on farmers to have different standards in different states, especially since many egg farmers sell across the country to different markets in different regions. Many retail purchasers, such as national grocery store and fast food restaurant chains, also need supplies of eggs from multiple states. Federal legislation is the only way to ensure a level playing field for all farmers, and provide stability for the U.S. egg market.

**Is this consistent with the vision of the U.S. Constitution?**

Yes, absolutely. The framers of the Constitution understood that varying state laws created challenges to trade that threatened a viable national economy. This was, in fact, one of the reasons for the Philadelphia convention of 1787 that produced our present Constitution. The framers adopted the Commerce Clause to enable Congress to establish federal laws preventing undue barriers to interstate commerce among states, as can occur with patchwork state legislation.

**Does this bill comply with international trade rules?**

Yes. Although imports account for less than 1% of U.S. egg sales and consumption, the bill is nevertheless drafted to comply with U.S. obligations under the World Trade Organization (WTO) Agreements. It applies equally to U.S. and foreign production of eggs and egg products sold in the U.S., does not favor any country to the detriment of another, nor disguise a protectionist motive, is based on the best available scientific information, and is not more trade restrictive than necessary to achieve the objectives of protecting human and animal life and health, food safety, animal welfare, and consumer protection.

**Will this bill cause U.S. farmers to move production to other countries, such as Mexico?**

No. Regardless of where egg and egg products are produced, they will still have to comply with the requirements in the bill in order to be sold in the U.S. market. Moreover, moving production outside of the U.S. will likely entail additional transportation costs because the products will have to be shipped back to the U.S. for sale. Thus, to continue selling eggs and egg products to customers in the U.S., there would be no advantage to moving production abroad.

**How does this bill affect small and mid-sized egg farmers?**

The legislation specifically exempts any producer with fewer than 3,000 laying hens, which is consistent with the Egg Products Inspection Act. Moreover, the smaller and mid-sized egg producers have even more to gain by S. 820 and H.R. 1731, because they are currently at a greater disadvantage due to the conflicting patchwork of state laws. The largest egg producers may have the capital and reserves and ability to obtain loans, so that they can create different housing systems to meet different state standards, but smaller and mid-sized farms may not have the same opportunities. All egg producers, big or small, will benefit from having a uniform national standard that provides regulatory certainty and creates a level playing field.