

THIS REPORT CONTAINS ASSESSMENTS OF COMMODITY AND TRADE ISSUES MADE BY USDA STAFF AND NOT NECESSARILY STATEMENTS OF OFFICIAL U.S. GOVERNMENT POLICY

Voluntary Public

Date: 1/24/2018

GAIN Report Number: HK1802

Hong Kong

Post: Hong Kong

Amended ML of Metallic Contaminants Eases Burden for U.S. Exporters

Report Categories:

Sanitary/Phytosanitary/Food Safety

WTO Notifications

Approved By:

Alicia Hernandez

Prepared By:

Caroline Yuen

Report Highlights:

The Hong Kong Government completed its public consultation on the proposed amendments to the regulation of metallic contaminants in food products. According to the published report, the consultation indicated general acceptance and support for the proposal. The proposed amendments would bring many Hong Kong permissible maximum levels of metallic contaminants in line with Codex, with a few exceptions. The Hong Kong Government plans to enact the amended regulation in 2018 and to provide industry with 12-month and 24-month grace periods to adapt to the changes for fresh and non-fresh food products, respectively.

At a recent trade forum, the Hong Kong Government (HKG) informed industry of the result of the consultation on the proposed amendments to the Food Adulteration (Metallic Contamination) Regulations conducted between June 6 and September 5, 2017. According to the consultation result, the government found industry, in general, supported the proposed amendment and did not view any proposed changes as widely contentious. The limited number of public comments received throughout the three-month consultation period, only 21, appeared to reflect the lack of controversy in the proposal.

The HKG told the trade that after the enactment of the amended regulation, it intends to provide a 12-month grace period for perishable and fresh food products including produce, meats, eggs, and aquatic animals. This relatively short compliance date is designed to address consumers' calls for early implementation of the amendment. For other products with a longer shelf life, the government is considering a grace period of 24-months to allow the industry a smooth transition to compliance with the amended regulation.

At this stage, the HKG has yet to determine which food products will fall under each of the two respective grace period lengths. However, government officials present at the trade forum promised to provide a guide for the implementation of the amended regulation which will identify affected food products and their corresponding compliance date. No specific date was provided as to when the guide may be available.

These proposed amendments would become part of the HKG's intensive regular food surveillance program. In 2016, 139,113 food samples were taken for microbiological, chemical, or radiation tests. The test results showed that 99.8 percent of samples complied with regulations; which was comparable to tests results in the past. Chemical tests, accounting for about 48,000 of the food surveillance samples, were aimed at detecting pesticides, preservatives, metallic contaminants, coloring matters, veterinary drug residues, and other contaminants.

Proposed Amendments to the Regulations – Basic Principles

The proposed amendments will bring the regulation closer in line international practices and the HKG has pledged to adopt the following principles in updating the regulation:

- a) The proposed amendment will set maximum levels (MLs) for metallic contaminants with respect to individual food categories. The existing "all food categories" covered by the four metallic contaminants, (namely, arsenic, lead, mercury, and tin) will be replaced with specific food items, as appropriate.
- b) The proposed amendments will adopt Codex MLs on metallic contaminants, with seven exceptions based on local dietary considerations. These seven exceptions are:
 - Codex ML for cadmium in "rice, polished"
 - Codex ML for methylmercury in predatory fish
 - Five Codex MLs for tin in certain meat products in containers other than tinplate containers

- c) The proposed amendments establish MLs for certain food groups which are of particular importance to the local population based on domestic dietary patterns, despite the absence of Codex metallic contaminant MLs for these food category pairings.
- d) The proposed amendments will update the food descriptions and nomenclatures with reference to those of Codex and of other jurisdictions as appropriate.
- e) With respect to multi-ingredient products and food in a dried, dehydrated or concentrated form, the proposed amendments will incorporate MLs referencing Codex guidance.

Impact on Specific U.S. Products

The HKG notified the World Trade Organization via SPS/N/HKG/42 in 2017 of the proposed amendment and the U.S. Government decided not to submit any comments.

In 2017, ATO Hong Kong received only one notification from the HKG that a sample of a U.S. fresh product was found with a metallic contaminant concentration, cadmium, of 0.21 mg/kg, which is inadmissible under both the current regulation and the proposed amendment to raise the ML to 0.2mg/kg. Given that the test result became available after the expiration date of the products, the products were not recalled. Under such circumstances, the food safety authority advised the importer not to import the same product category from the same source again.

The HKG's current effort to amend the cadmium regulation to increase the ML from the existing level of 0.1 mg/kg to 0.2 mg/kg is conducive to U.S. leafy products exports to Hong Kong because it brings the Hong Kong regulation closer in line with international standards.

Although Hong Kong is amending its metallic regulations by adhering to the Codex standard, the cadmium level in rice is one of the few metallic standards that the amendment will not modify to follow Codex. The new proposed standard is 0.2 mg/kg, making it more stringent than the Codex standard of 0.4 mg/kg and more lenient than the existing one (0.1 mg/kg). The HKG explained that the proposed level was determined based on the local diet and risk assessments conducted in the past, in addition to references from the standard adopted by Codex and other jurisdictions.

According to the food surveillance conducted by the HKG in the past, none of the rice samples which were found with cadmium exceeding the existing Hong Kong standard of 0.01 mg/kg came from the United States. However, no information was available as to whether any food samples tested were of U.S. origin.

Comments on the Proposed Amendments to the Regulation

The HKG summarized the diverse views contained in the 21 comments in the consultation paper. The comments contained objections to relaxing the cadmium ML in rice and requests for tightening cadmium ML in seafood, given that Hong Kongers consume among the largest amount of seafood per capita in the world. On the other hand, there were calls for a less stringent ML for methylmercury in fish saying that the proposed level of 0.5 mg/kg was too stringent. Similarly, a fishermen's organization expressed concern on the reduction of MLs for arsenic and lead in aquatic

animals.

Nonetheless, the HKG explained that all the proposed standards referenced Codex and overseas jurisdictions and the few deviations from Codex have been based on the [Hong Kong Total Diet Study](#). Furthermore, the HKG assured the public that the seafood supply will not be affected as a result of the lowering of MLs of metallic residues in the future because its routine food surveillance indicated that less than five percent of the seafood samples were found with metallic content higher than the proposed MLs.

The HKG is now prepared to proceed to draft legal language as set out in the original proposal. The government is going to conduct technical workshops with the industry, including, but not limited to, workshops to discuss the testing methods for various contaminants. The plan is to have the amended regulation enacted in 2018. After the enactment of the amended regulation, it is expected that the food safety authority will strengthen the metallic residues testing of food samples so as to monitor compliance with the amended regulation.