

Heads of Environmental Health Services via Principal Officers (Food Safety)
(England) - for action
Directors of Trading Standards (England) - for action

Chief Port Health Officers (England) - for action
Nominated Officers for Imported Food (England) – for action
Border Inspection Posts (England) – for action
Chief Port Health Officers (England) - for action
Feed Authorities with Control of Animal Feed (England) – for action

cc: APHA
CIEH
LACORS
APA
Trading Standards Institute
Health Protection Agency

17 October 2008

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(update 3)
IFD/E/08/042
OVS/2008/82

Dear Colleague,

**MELAMINE CONTAMINATION OF MILK & MILK PRODUCTS FROM CHINA –
NEW COMMISSION DECISION 2008/798/EC**

This letter is addressed to inland Enforcement Officers, Chief Port Health Officers, Nominated Officers for Imported Food, Border Inspection Posts and relevant officers with responsibility for official controls on animal feed in England only.

Further to previous letters about this issue I am writing to inform you that the European Commission have published new safeguard measures which streamline and simplify the control tasks imposed on Member States set out in Decision 2008/757/EC.

Whilst the measures in Decision 2008/757/EC were limited to products containing at least 15% of milk products, Member States have been reporting significant difficulties in establishing the exact milk product content of a number of composite products targeted by the measures.



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Therefore the Commission have published Decision 2008/798/EC on 14 October 2008, and it takes effect immediately. Please see the following link to the new Decision here

lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:273:0018:0020:EN:PDF

Decision 2008/798/EC repeals Decision 2008/757/EC and has been implemented by means of Declarations OFFC 2008/E/005 and POAO Reg 61/026 which revoke Declarations OFFC 2008/E/004 and POAO Reg 61/025.

The new Decision:

- a) continues the prohibition of imports into the Community of composite products containing milk or milk products, intended for the particular nutritional use of infants and young children (Article 2.1)
- b) removes the 15% threshold for milk and milk products so that documentary, identity and physical checks and laboratory analysis must be carried out on all consignments of composite products, including feed, containing milk products originating in or consigned from China (Article 2.2)
- c) allows Member States to carry out random checks on any other feed and food products with a high protein content from China (Article 2.2)
- d) states that control measures must be carried out at designated points of control in Member States (Article 2.3). In England this is all points of entry.
- e) states that food business operators or their representatives must give prior notification to designated ports of all consignments originating in, or consigned from China of composite products, including feed, containing milk products (Article 3). Again this would be all points of entry in England.

Enforcement action

All checks at all points of entry must be carried out with a view to ascertaining that any levels of melamine found must not exceed 2.5 mg/kg product. All consignments shall be detained pending the availability of the results of the laboratory analysis (Article 2.2). Any products found to be non-compliant must be destroyed without delay (Article 2.6). All costs incurred by enforcement bodies related to checks, analysis and enforcement action on non-compliant products under Article 2.2 are to be borne by the food business operator responsible for the product. (Article 2.7)

Enforcement officers at ports and inland authorities may also perform the controls set out in Article 2.2 on feed and food products with a high protein content originating from China (Article 2.5). These products, because of their high protein content, could have been subject to adulteration practices similar to those applied to the milk products, although there is at present no evidence that this has been the case.

Animal Feed

The Decision applies to composite products containing milk products originating in or consigned from China intended for animal feed (including pet food). The Agency

understands that there may be little by way of imports of such products entering ports. However, any product affected by the Decision should be subject to control by Port Health Authorities. Feed authorities should be ready to liaise with officers from all points of entry where products affected by the Commission Decision are identified as intended for use as animal feed.

The Agency would also like to take this opportunity to remind feed authorities that as part of the Single Integrated National Control Plan for the United Kingdom, prepared under EC Regulation 882/2004 on official feed and food controls, the Food Standards Agency's Animal Feed Unit issued guidance on enforcement priorities for local authorities in Great Britain. The enforcement guidance for 2008/2009 was circulated in March 2008 and requested feed authorities include checks on protein isolates originating from China for the presence of melamine as part of their routine surveillance activities – please see following link:
<http://www.food.gov.uk/multimedia/pdfs/enforcement/enfe08023.pdf> .

Reporting of results

Positive and negative results from the laboratory analyses referred to in Article 2.2 need to be reported to the Food Standards Agency. Positive results should be reported using a food incident form at the following link:
<http://www.food.gov.uk/multimedia/worddocs/lafoodincidentreportform.doc>

Negative results should be e-mailed every two weeks using the table attached in my previous letter of 29 September 2008 to: melamine.enquiries@foodstandards.gsi.gov.uk . The measures will be regularly reassessed in the light of the results of the controls carried out by the Member States.

To help the Agency to accurately ascertain the number of samples taken and types of products sampled, it would be useful if the inland authorities could email these details to: melamine.enquiries@foodstandards.gsi.gov.uk, at their earliest convenience.

If you need any further information on the policy aspects on this issue please contact my colleagues Dr Jillian Spindura on 020 7276 8708, email jillian.spindura@foodstandards.gsi.gov.uk , or Kara Thomas on 020 7276 8711, email Kara.Thomas@foodstandards.gsi.gov.uk

If you need any further information on the enforcement aspects of this issue please contact me.

As regards the enforcement aspects of animal feed legislation, please contact Mercy Adebisi on 020 7276 8470, email mercy.adebisi@foodstandards.gsi.gov.uk. The advice contained in this letter should not be taken as an authoritative statement of the law or its interpretation. Only the courts can decide whether in particular circumstances an offence has been committed.

I hope that this is helpful but if you need any further information please let me know. The Agency's imports section on our website can be found at <http://www.food.gov.uk/imports>

Local Authorities may also register for the Agency's on-line Guidance and Regulatory Advice on Import Legislation system (GRAIL) by following this link: <https://grail.foodapps.co.uk/grail/general/home.aspx>

Yours sincerely



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