

Chief Port Health Officers & Nominated Officers for
Food (England) – for action

Heads of Service of Feed Authorities with
responsibilities at points of entry – for action

Border Inspection Posts (England) – for action

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

9 April 2010

Reference: IFD/E/10/004
OVS/2010/17

Dear Colleagues,

**COMMISSION REGULATION (EU) No 258/2010 – IMPORTS OF GUAR
GUM ORIGINATING IN OR CONSIGNED FROM INDIA DUE TO
CONTAMINATION BY PENTACHLOROPHENOL (PCP) AND DIOXINS,
AND REPEALING DECISION 2008/352/EC**

This letter is addressed to Chief Port Health Officers, Nominated Officers for
Imported Food and Border Inspection Posts in England and Heads of Service
of Feed Authorities with responsibilities at points of entry only.

On 26 March 2010 the Commission published Regulation (EU) No 258/2010
imposing special conditions on the import of guar gum originating in or
consigned from India due to contamination risks by pentachlorophenol and
dioxins, and repealing Commission Decision 2008/352/EC. Regulation (EU)
No 258/2010 comes into force 20 days from its publication which takes us to
Thursday 15 April. Please see the following link to the new Regulation
[http://eur-
lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:080:0028:0031:EN:P
DF](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:080:0028:0031:EN:PDF)

Regulation (EU) No 258/2010 has been implemented by means of Declaration
OFFC REG/2010/E/001 issued under Regulation 35 of the Official Feed and

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Food Controls (England) Regulations 2009, and Declaration POAO REG 61/035 issued under Regulation 61 of the Products of Animal Origin (Third Country Imports) (England) Regulations 2006. Copies of these Declarations are attached to the email accompanying this letter as pdf documents.

The new Regulation requires consignments of guar gum, falling within CN code 1302 32 90 originating in or consigned from India, and intended for animal or human consumption, and feed and food containing at least 10% guar gum originating in or consigned from India, and intended for animal or human consumption, to be accompanied by:

- a health certificate, a model of which is provided at the Annex to the new Regulation, certifying that the product imported does not contain more than 0.01 mg/kg pentachlorophenol (PCP) (Article 2.1(a)). The certificate must be signed by an authorised representative of the Ministry of Commerce and Industry of India, and shall be valid for up to 4 months from the date of issue. (Article 2.2)
- an analytical report, issued by a laboratory accredited according to EN ISO/IEC 17025 for the analysis of PCP in feed and food, indicating the results of sampling and analysis for the presence of PCP, the measurement uncertainty of the analytical result, as well as the limit of detection (LOD) and the limit of quantification (LOQ) of the analytical method. (Article 2.1(b))

Article 3 of the new Regulation requires that each consignment of guar gum be identified by a code, which shall be indicated on the health certificate, on the analytical report and on any commercial documents which accompany the consignment. Each individual bag or other packaging form of the consignment shall be identified with the code.

Article 4 of the new Regulation requires feed and food business operators or their representatives to give prior notification to the entry control point in England, giving the estimated date and time of arrival of the consignment. All ports and airports will be entry control points for the purposes of this Regulation.

Competent authorities at the control point should carry out documentary checks on all consignments. Identity and physical checks, including sampling and analysis to control the presence of PCP, shall be carried out on at least 5% of the consignments. Given that it cannot be excluded that guar gum originating in India is exported to the EU via another third country, competent authorities should also perform random physical checks, including sampling and analysis to control the presence of PCP on guar gum consignments from countries other than India. Consignments can be detained for up to 15 working days pending the results of tests. (Article 5)

Consignments shall not be split until all official controls have been completed. If a consignment is split, a certified copy of the health certificate shall accompany each part of the split consignment until its release into free circulation. (Article 6)

All costs resulting from these official controls including sampling, analysis, storage and any measures taken following non-compliance shall be borne by the feed and food business operator. (Article 7)

Feed and food business operators or their representatives need to provide customs with evidence that the controls have been carried out in order for consignments to be released for free circulation (Article 8). Therefore, as with the arrangements set out in our letter of 9 April 2008 (ref IFD/E/08/011), **PHAs/LAs are requested to endorse the health certificate, provide it to the feed or food business operator or their representatives, and advise them to provide a copy of the endorsed certificate to the HMRC National Clearance Hub at Salford alongside their Customs entry paperwork in the normal manner.**

Any non-compliant products found to exceed the 0.01 mg/kg PCP, taking into account the expanded measurement uncertainty, following controls performed in accordance with Article 5 of the new Regulation should not enter the food chain (Article 9). Non-compliant products should be safely disposed of in accordance with Article 19 of Regulation (EC) No 882/2004.

Products that are found not to comply with requirements during documentary, identity and physical checks carried out under Article 5.1 cannot be released for free circulation and should be rejected (Article 8).

All incidences of non-compliant consignments should be notified to the Commission through the usual RASFF notification system, and we have to submit a quarterly report on all analytical results of the controls referred to in Article 5 (1) (Article 10). We will request these in the usual way.

Article 12 of the new Regulation provides for a transitional period so that any consignments which left the country of origin before 1 April 2010 will be subject to the previous official controls as set out in Commission Decision 2008/352/EC. However as the Regulation does not come into force until 15 April 2010 the Commission has issued a guidance note which states that the import of consignments of guar gum which have left India by 14 April 2010 should be authorised on the condition that the consignments comply with the provisions of Commission Decision 2008/352/EC, i.e. that the above transitional period should apply until 14 April 2010. I have attached this guidance note to the email accompanying this letter.

If you have any queries relating to policy issues in this letter please contact my colleague David Mortimer in the Agency's Policy and Strategy Unit,

Chemical Contaminants and Novel Foods Division on 020 7276 8731, email david.mortimer@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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