

Heads of Environmental Health Services via
Principal Officer (Food Safety) and Directors of
Trading Standards– for action

cc: APHA

HM Revenue and Customs

CIEH

LACORS

APA

Trading Standards Institute

Health Protection Agency

25 March 2008

Reference: ENF/E/08/021

Dear Colleagues,

UNAUTHORISED “Bt 63” GENETIC MODIFICATION IN RICE AND RICE PRODUCTS FROM CHINA

This letter is addressed to enforcement authorities in England only.

Further to the letter issued on 7 March (EN/E/08/016) this letter provides further advice on the statutory obligations of food and feed authorities in relation to rice and rice products contaminated with the unauthorised genetically modified organism “Bt 63”.

The letter of 7 March referred to powers provided by the Official Feed and Food Controls (England) Regulations 2007 that are available to enforcement authorities when enforcing the Regulations in relation to the control of unauthorised GM material. Additional powers are also provided by the General Food Regulations 2004. The Agency takes the view that the unauthorised GM material is ‘unsafe’ as defined in Article 14 of Regulation (EC)178/2002 and that food business operators should inform enforcement authorities if such rice has left their possession, initiate procedures under Article 19 of Regulation (EC) 178/2002 to withdraw it and to recall it if has reached consumers. Enforcement authorities have powers to enforce these Articles under Regulation 6 of the General Food Regulations 2004.

The Rice Products from China (Restriction on First Placing on the Market) (England) Regulations 2008 which will come into force on 15 April 2008 will implement the Commission Decision which specifies that, from 15 April, rice and rice products originating in or consigned from China and falling within the CN codes listed in the Commission Decision (Annex I of this letter), may only be first placed on the EU market if:

- a. they are accompanied by an original analytical report issued by an official or accredited laboratory which demonstrates that the product does not contain Bt63, OR
- b. Satisfactory results of analysis are received by the food authority at the point of entry to the Community, following sampling carried out by or under the supervision of that authority.

The measure also requires that Member States shall take appropriate measures, including random sampling and analysis concerning the products listed in Annex 1 presented for importation or already on the market. Positive and negative results need to be reported to the Food Standards Agency so that these can be reported to the Commission. The necessary measures need to be taken to ensure that products which are found to contain, consist or to be produced from GM rice 'Bt63' are not placed on the market.

Enforcement authorities will have to consider what are 'appropriate measures' when they are executing and enforcing the Regulations. In deciding what are 'appropriate measures' they should take account of local conditions in their area relevant to the amount of contaminated rice and rice products that may be present on the market. In identifying rice that may not already have been positively cleared as free from contamination, enforcement authorities may find it helpful to seek guidance from food business operators (including retailers) as to whether any of the stock falls into this category.

With respect to sampling, the Decision states that account should be taken of the Commission Recommendation 2004/787/EC on technical guidance for sampling and detection of genetically modified organisms and material produced from genetically modified organisms. If you wish to have rice or rice products analysed, samples can be submitted for analysis in the usual way via the Public Analyst network. The Agency is working with analysts to help ensure that there is capacity and capability for this test method. The public analyst laboratory at Worcester Scientific Services will be in a position to carry out analysis shortly. The Central Science Laboratory will also be able to carry out analysis shortly. The method used should be that of Made *et al* (2006). The publication reference for this method is Eur. Food Res. Technol, 224:271-278 (2006).

The Agency will issue a food alert requesting enforcement authorities to take action when practical arrangements regarding testing are in place.

Yours sincerely

Dr Clair Baynton
Head of Novel Foods, Additives and Supplements Division
Food Standards Agency

Annex I - Draft Commission Decision that will come into force on 15 April 2008:
[Separate pdf document]