Food Standards Agency

Food Safety Act 1990

(as amended)

Code of Practice No. 7:
Sampling for Analysis or Examination
(Revised October 2000)

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Code of Practice on Sampling for Analysis or Examination

(Code of Practice No. 7 Revised October 2000)

This Code of Practice is issued under section 40 of the Food Safety Act, as amended ("the Act"). The Code is set out in bold print. Notes for guidance, which are in plain text, are not provisions of the Code but are guidance to the food authorities and others about its application and interpretation. This Code supersedes Code of Practice No 7. published in 1991.

Introduction

1 This Code of Practice governs the procedures which authorised officers should follow when procuring and handling food samples taken under the Act and the Food Safety (Sampling and Qualifications) Regulations 1990 (the Regulations). Samples which may result in formal enforcement action if an adverse report is received following analysis/examination should be obtained in accordance with the procedures set out in this Code.

2 The Code applies both to sampling for analysis and sampling for examination. Section 53 of the Act defines "analysis" as including microbiological assay and any technique to determine the composition of food. "Examination", defined in Section 28 of the Act, means a microbiological examination. Paragraphs 1-9 are general points which apply to both sampling for analysis and sampling for examination. Points which are specific to sampling for analysis are dealt with in paragraphs 10-26 and those specific to sampling for examination in paragraphs 27-34.

3 This Code does not deal with:

- **Samples of food that are the subject of complaint and are brought to the food authority by consumers or other outside agencies (see Code 2 – Legal Matters);**
- **Samples of food that are submitted to the public analyst or food examiner for monitoring or surveillance purposes alone, i.e. there is no intention at the time of sampling that any formal enforcement action will ensue from the result;**

- **Samples of food procured under the Act which are not taken for analysis or examination, e.g. samples submitted for expert opinion, pest identification etc.;**

- **Samples of food that are taken as evidence in their own right e.g. use-by dates;**

- **Samples that are taken under the provisions of Regulations that have their own detailed sampling provisions and are listed in the Schedule to the Food Safety (Sampling and Qualifications) Regulations 1990 (as amended).**

Sampling Policy and Sampling Programme

4 Food authorities should prepare and publish a food sampling policy and make it available to businesses and consumers. The policy should set out the authority's general approach to food sampling and its approach in specific situations such as process monitoring, home authority principle, inspections, complaints, special investigations and national, regional and local co-ordinated programmes. This sampling policy should cover all samples taken including those not taken in accordance with this Code.

5 Food authorities should also prepare a sampling programme that details the authority's intended food sampling priorities. The programme should take account of the number, type and risk ratings of the food businesses in the area, the authority's Home Authority responsibilities, and the need to ensure that the provisions of the food law are adequately enforced. The sampling programme should not normally be published.

6 The sampling policy and the sampling programme should be prepared in consultation with the food examiner and the public analyst, which may take place on a local or regional basis.

Part I: General

Procurement of Samples

7 The Act allows samples to be procured either by “purchasing” or “taking”. The choice as to whether a sample should be purchased or taken is a matter for the discretion of the authorised officer, having regard to the policy of the food authority. Where the quantity or frequency of sampling is likely to give rise to significant financial consequences for the owner of the food, the food authority should consider making an ex-gratia payment if the samples are not purchased. The officer should give the owner a receipt for, or a record of, all samples the officer has taken. **If enforcement action under Section 14 of the Act is anticipated following microbiological examination the sampling officer should purchase the sample.**

Certificate by Food Analyst or Examiner

8 Under the Act a food analyst or examiner is required to analyse or examine samples as soon as practicable and to give the officer who submitted the sample a certificate specifying the result. Authorities should discuss with the public analyst or food examiner how these requirements are to be met including the means by which results which indicate a significant risk to public health, or where legislative deadlines apply such as water in poultry, can be notified without delay.

9 Food authorities should meet all reasonable requests to provide information on the selection of sample, sampling method and method of microbiological examination or chemical analysis to enable the manufacturer or importer of the food to assess or repeat the examination or analysis.

Part II: Samples for Analysis

10 All samples for analysis, taken in accordance with the Food Safety (Sampling and Qualifications) Regulations 1990 and the requirements of this Code should be submitted to the appointed public analyst at a laboratory accredited for the purposes of analysis and which appears on the list of official food control laboratories[1].

Quantity of Samples for Analysis

11 The nature and quantity of any sample procured should be such as to allow a satisfactory analysis to be made. The nature of the samples which are appropriate will depend on the purpose for which the analysis is being undertaken. The quantity will vary according to the product and type of analysis to be carried out. In any case of doubt the public analyst should be consulted.

12 Where national sampling protocols exist, these should be taken into consideration. Some modification to the protocols may be necessary in the case of large consignments of imported foods.

Division of Samples for Analysis

13 Regulation 6(1) of the Food Safety (Sampling and Qualifications) Regulations 1990 requires that the sample be divided forthwith into three representative parts, subject to Regulation 6(4) (explained in paragraph 19 of this code). Therefore, unless paragraph 22 or 19 of this code applies, the formal sample should be divided as soon as possible into three representative parts. The resultant parts of the sample are referred to in this code as final parts. Where practicable, the division should be carried out on the premises of the seller/owner of the food, who, if present, should be given the opportunity to observe the sampling and division before being invited to choose one of the parts for retention. Care should be taken to prevent contamination of samples and instruments and containers used should be clean and dry. It is important to avoid the use of cleaning and sterilising methods which may leave residues on the instruments and containers which could affect the results of the analysis (e.g. alcohol).

1 A UK list of official food control laboratories has been submitted to the European Commission. It has also been published on the FSA website. The list has been subdivided by country and according to whether chemical analysis, microbiological examination or both are carried out.

14 The sampling of imported foods at the port of entry may pose particular difficulties and in the special circumstances found by Port Health Authorities, samples need not be divided on the premises or in the presence of any representative of the seller/owner or importer.

Containers for Samples for Analysis

15 Samples of food which are not pre-packed or opened cans or packets of foods should first be placed in clean, dry leak-proof containers such as wide-mouth glass or food quality plastic jars, stainless metal cans or disposable food quality plastic bags. Jars, bottles or cans should be suitably closed. Disposable food quality plastic bags should be sealed securely after filling so that they cannot leak or become contaminated during normal handling. Samples of alcoholic drinks should be placed in glass bottles.

16 The contained final parts should each be secured with a tamper evident seal, and labelled specifying the name of the food, the name of the officer, the name of the authority, the place, date and time of sampling and an identification number. Where necessary, it should then be placed in a second container, such as a plastic bag, which should be sealed in such a way as to ensure that the sample cannot be tampered with. A copy of the food label if available and any other relevant details should be submitted to the public analyst with a final part.

Transport and Storage of Samples for Analysis

17 **Final parts of food which are perishable should be kept refrigerated or in a frozen state, as necessary.** The method of storage used will differ depending on whether the final part is to be submitted to the public analyst or retained for possible submission to the government chemist.

18 The final part to be submitted to the public analyst should be transmitted as soon as practicable after sampling, particularly where tests are to be made for substances which may deteriorate or change with time (e.g. certain pesticides, sulphur dioxide, etc). In any case where doubt exists about suitable storage or transport arrangements for samples for analysis, the public analyst should be consulted. Since retained final parts may need to be stored for several months prior to submission to the Government Chemist, it is important that they are appropriately stored.

Samples which Present Difficulties in Dividing into Parts

19 An exception to division into three parts applies where the authorised officer is of the opinion that division of the sample is either not reasonably practicable or is likely to impede proper analysis. Regulation 6(4) of the Regulations allows for the sample to be submitted for analysis complete without division into three parts. There is no final part for the seller/owner neither is there a final part to be retained. This procedure must therefore be used with caution. Situations where this procedure may be used will depend on the tests to be carried out but may include the following: where there is insufficient product available to comply with the procedures in Regulation 6(1) or 6(2); where there is no way of storing a final part for further analysis as with tests for previously frozen meat.

20 This situation may also arise where foods are not pre-packed and are not homogenous and it is difficult to divide the food into three parts so that each part contains the same proportion of each ingredient e.g. meat products with lumps of meat, pies where it is difficult to divide the pastry and the filling into three, fruit cocktail/yogurts with fruit where an ingredient is to be quantified. When food is pre-packed paragraph 22 should be followed.

21 In any case, where Regulation 6(4) applies the owner must be notified that the sample has been submitted for analysis.

22 Regulation 6(2) sets out an exception from the general procedures where the sample consists of unopened containers and opening them would, in the opinion of the authorised officer, impede proper analysis. In these circumstances the authorised officer should divide the sample into parts by putting containers into three lots, and each lot should be treated as a final part.

23 When considering whether to use this procedure, it should be borne in mind that the analysis of the retained final part carried out by the Government Chemist may be made some considerable time after the date of sampling. The officer needs to consider what analysis needs to be requested and whether opening the sealed container would prevent the analysis. Examples where the analysis may be affected include the following:

(a) foods containing evanescent ingredients e.g. soft drinks containing Vitamin C, dried fruit containing sulphur dioxide;

(b) foods containing, or suspected of containing, volatile substances, e.g. solvent, alcohol;

(c) foods packaged in modified atmospheres where gas analysis is required or loss of the protective atmosphere could alter preservative levels;

(d) foods packed in aerosols;

(e) “aerated” foods, e.g. carbonated soft drinks;

(f) products where it is necessary to have an unopened container in order to carry out a particular test e.g. condensed milk where there is a statement that the contents are equivalent to a quantity of whole milk;

(g) products which are difficult to extract from the container and where there is a possibility of a considerable quantity of the food remaining in the container e.g. salad cream, sauces, treacle.

Where any doubt exists, the public analyst should be consulted.

Notification to Manufacturer/Packer/Importer

24 If, when a food has been procured by an officer for analysis, there is available, on the food packaging the identity of the packer or manufacturer or importer or his or her agent, and the address is in the United Kingdom, the officer should notify that person, of the procurement, in writing. The notice should be given as soon as practicable after sampling has taken place and should include the name of the food. If the person in question is the owner of the food and has received a final part, this is not necessary.

Certificates of Analysis

25 The owner of the food and any person who has received a final part and/or a notice in accordance with paragraph 24 is entitled, on request, to a copy of the certificate of analysis.

26 Where a certificate indicating that the foodstuff does not comply with legal requirements has been received the food authority should as soon as practicable forward a copy to the person from whom the food was sampled and the importer/manufacturer/producer if based in the EU. The food authority should also have regard to the Home Authority Principle. Where an investigation is being undertaken by the food authority the release of the certificate may be delayed but only where its early release may compromise the investigation by the food authority.

Part III: Samples for Examination

27 All samples for examination, taken in accordance with the Food Safety (Sampling and Qualifications) Regulations 1990 and the requirements of this Code should be submitted to the food examiner at a laboratory accredited for the purposes of examination and which appears on the list of official food control laboratories[2].

28 Samples for examination are not required to be divided into three parts since the non homogeneous distribution of bacterial contaminants means that no two samples will be the same. It is not appropriate to retain a part for examination later in the event of a dispute, as bacteria may not survive prolonged storage or conversely, may greatly multiply.

Quantity of Samples for Examination

29 The quantity of any sample procured should be such as to enable a satisfactory examination to be made. The quantity will vary according to circumstances but should normally be at least 100 grams. In any case of doubt the food examiner should be consulted.

Handling of Samples for Examination

30 Officers should take steps to ensure that, as far as possible, samples for examination reach the laboratory in a condition microbiologically unchanged from that existing when the sample was taken. Appropriate action to avoid contamination of the sample and microbial growth or death during sampling, transport and storage should therefore be taken.

2 A UK list of official food control laboratories has been submitted to the European Commission. It has also been published on the FSA website. The list has been subdivided by country and according to whether chemical analysis, microbiological examination or both are carried out.

Containers for Samples for Examination

31 Samples for microbiological examination should be taken and handled in a manner that eliminates the risk of contamination during the sampling process. Sampling officers should have regard to any advice provided by the food examiner on the need to observe aseptic sampling techniques. The owner of the food should be given the opportunity if present to observe the sampling procedure.

Transporting and Storing Samples for Examination

32 Samples should be transported and stored under conditions which inhibit changes in microbial numbers and be delivered to the laboratory without undue delay.

Request for Examination

33 The officer should ensure that all relevant information is passed to the food examiner with the sample to ensure that the sample is subjected to the most appropriate examination and to enable the examiner to interpret the results.

Notification to the Manufacturer

34 An officer who has taken a sample for examination and who has evidence that an alleged offence has been committed under the Act should, as soon as is reasonably practicable, (except in the case of imported food) notify the manufacturer of the food, if known, giving details of the alleged offence and of the circumstances in which the sample was taken. If the alleged offence is thought to be related to the manufacturer, it is recommended that the manufacturer should be informed immediately by the fastest possible means (e.g. fax or telephone, subsequently confirmed in writing). In the case of imported food, the importer, or their agent, may be notified. Any person who has been so notified is entitled on request to a copy of the certificate of examination, as is the owner of the food.

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