

To: Lead Food Officers
cc: REHIS, COSLA, SFELC

26 November 2015

FSS/ENF/15/014

Dear Colleague

Update: Food Contact Materials

Please find below an update on a number of matters of interest on food contact material legislation.

Active and Intelligent Materials – An update

Commission Regulation (EC) No 450/2009 established specific rules for these Active and Intelligent food contact materials (sometimes referred to as the “AIM Regulation”). This Regulation requires that substances responsible for the active or intelligent function are evaluated by EFSA, before being authorised by the Commission and included in a positive Community list.

‘Active’ food contact materials are defined as those that are intended to extend the shelf-life or to maintain or improve the condition of packaged food. They are designed to deliberately incorporate components that would release or absorb substances into or from packaged food or the environment surrounding the food.

‘Intelligent’ food contact materials are those which monitor the condition of packaged foods.

Thirty one applications have been submitted and the majority has now been evaluated by EFSA. The EFSA evaluation process is progressing towards its end and the community list will be established in due course.

Before the Community list is published

Until the Community list is published, active and intelligent materials can be used in the EU provided that they comply with the general framework EU legislation on food contact materials (Regulation (EC) No 1935/2004) and any national provisions that may apply (the UK has no national provisions). It should be remembered that although the Community list has yet to be published, certain elements of Regulation (EC) No, 450/2009 are already in force. These are: specific labelling requirements where such active and intelligent materials may be mistaken as edible; and a requirement for a Declaration of Compliance.

Once the Community list is published

It is important that food businesses are aware that, once the Community list is published, only substances which are included on the list may be used in components of active and intelligent materials and articles in the EU, unless they are covered by a particular derogation given in the legislation.

End of the transitional period for testing food contact plastics

There is an issue that companies need to be mindful of with regards the testing of food contact plastics. From 1 January 2016, such testing must be in line with Article 18 (on the rules for assessing compliance with migration limits) and with the annexes to Commission Regulation 10/2011 (as amended). Whilst the testing to the basic rules for overall and specific migration testing set out in the Annex to Directive 82/711/EEC is currently valid, it will no longer be after that date. Documentation, such as the Declaration of Compliance, should reflect this change from 1 January 2016.

Recycled plastics

The EU Regulation on recycled food contact plastics (Commission Regulation EC No. 282/2008) requires that a safety assessment is carried out by the European Food Safety Authority (EFSA) on applications for authorisation of recycling processes. The Commission will then adopt a Decision for each applicant granting or refusing authorisation of their recycling process. This Regulation requires all Decisions to be published at the same time, and the Commission is working on preparing the draft Decisions.

Food businesses should be aware that once the Commission decisions have been published:

- trade in and use of recycled plastic from a process for which authorisation has been refused, or for which no valid application has been submitted, will only be permitted for a period of 6 months.

- trade in and use of recycled plastic materials and articles containing recycled plastic from a process for which authorisation has been refused, or for which no valid application has been submitted, will only be permitted until exhaustion of stocks.

Once all the Decisions are published, the Commission will in due course make available a Community register of authorised recycling processes and a register of recycling sites in the Community and third countries.

If you have any queries on this, please contact me at the email address at the top of the first page.

Yours sincerely



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