

EC Publishes Guidance Document on Plastic Chinese Kitchenware

On 14 June 2011, the European Commission (EC) published a Guidance Document relative to Commission Regulation (EU) No 284/2011 applicable on 1 July 2011 laying down specific conditions and detailed procedures for the import of polyamide and melamine plastic kitchenware originating in or consigned from the People's Republic of China and Hong Kong Special Administrative Region,

The document provides for legal clarifications on some definitions and guidelines for implementation by business operators.



Summary of Key Points

Background

Regulation (EU) No 284/2011 aims at ensuring uniform import procedures at EU level of kitchenware made of polyamide and melamine originating in or consigned from China and Hong Kong regarding the release of primary aromatic amines (PAA) and formaldehyde.

Clarifications from Guidance Document

- **Definition of plastic kitchenware:**

Polyamide and melamine plastic kitchenware are plastic kitchenware as defined by customs Combined Nomenclature CN code 3924 10 00 (tableware and kitchenware). They may consist completely of polyamide or melamine, or consist of parts intended to come into contact with food that are made of polyamide or melamine.

- **Clarifications about consignment and first point of introduction:**

Reminder: Importers or their representatives shall notify the competent authority at the first point of introduction at least two working days in advance of the estimated date and time of physical arrival of consignments originating in, or consigned from, China and Hong Kong.

A **consignment** means a quantity of polyamide or melamine plastic kitchenware covered by the same document(s) and conveyed by the same means of transport from the same third country. A consignment can arrive at the first point of introduction in one container, in several containers, or only as part of one container together with other consignments. A consignment can consist of articles that differ in shape, size, print pattern, food contact areas and/or conditions of use.

The **first point of introduction** is the point of entry of a consignment into the EU. The EC has published the national list of first points of introduction available at this link:

http://ec.europa.eu/food/food/chemicalsafety/foodcontact/docs/table_1st_point_21062011.pdf

- **Clarification about declaration and laboratory report:**

Reminder: Importers shall submit to the competent authorities for each consignment a declaration, which shall be in the official language, or in one of the official languages of the Member State in which the consignment is imported, accompanied with a laboratory report demonstrating that the products meet the requirements concerning the release of primary aromatic amines and formaldehyde laid down in Regulation (EU) No 10/2011 on plastic materials and articles intended to come into contact with food.

The **declaration** can be submitted on paper or in electronic form. The model is downloadable in all EU languages at this website:

http://ec.europa.eu/food/food/chemicalsafety/foodcontact/documents_en.htm

Where onward transportation to another Member State is allowed and the goods are intended for free circulation in that Member State, it is recommended that an additional copy of the Declaration in the language of the Member State where the products are to be released be presented to competent authorities.

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The **laboratory report** must be representative of the consignment. In the case of several consignments produced with the same materials under the same production conditions, one common report is accepted but it must accompany each consignment. If the consignment consists of articles with different shapes, print patterns or contact areas or different conditions of use, then the laboratory report can be attached to all the items for which it is representative. The description must be clear and pictures should be used if necessary; the batch and/or lot number of the contained articles should be mentioned.

Technical guidelines on testing the migration of primary aromatic amines from polyamide kitchenware and of formaldehyde from melamine kitchenware can be found at the EC Institute for Health and Consumer Protection website: http://ihcp.jrc.ec.europa.eu/our_labs/eurl_food_c_m/technical-guidelines-2011

- **Onward transportation authorization:**
Only specific circumstances such as physical/space reasons and financial reasons can lead the competent authority at the first point of introduction to authorize onward transportation.
- **Scheme for release for free circulation:**
The competent authorities at the first point of introduction are in charge of the checks. Once the consignment is “Conform,” the authority should complete the Declaration and return it to the business operator responsible for the introduction. The business operator will present the Declaration to the customs authorities when the goods are intended to be released for free circulation who will take the information provided into account when deciding to release the goods for free circulation..
- **Reaction of authorities in case of non-respect of procedure or non-compliance of goods:**
 - **The consignment has not been presented for official controls:**
The competent authority should order that it be recalled or withdrawn and placed under official detention without delay and that it be then re-dispatched.
 - **A consignment which is presented to the customs authorities for its release for free circulation is not accompanied by the declaration:**
The consignment cannot be accepted for release for free circulation and the competent authorities may grant the business operator a limited time frame to provide the declaration.
 - **The documentary checks are unsatisfactory and/or incomplete:**
The competent authorities may request further information from the business operator to be provided within a timeframe. If unsatisfactory or insufficient information is provided to the competent authority, the consignment should be considered non-compliant and appropriate measures could be taken.
 - **The results of the identity and physical checks show non-compliance of the consignment:**
The competent authority should place the consignment under official detention, and then order its destruction, re-dispatching or recycling for purposes other than for food contact. The competent authority should inform the Commission through RAPEX and notify Customs of its decision.

Additional Resources

Full Text of Guidance document:

http://ec.europa.eu/food/food/chemicalsafety/foodcontact/docs/20110614_guidelines_china_measure_en.pdf

How Can Bureau Veritas Help?

If you have any comments and/or questions, please contact your customer service representative or visit www.bureauveritas.fr, www.bureauveritas.co.uk/cps or www.bureauveritas.de/cps

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