

# Refined Regulatory Framework for Pesticide Residues in Food in Hong Kong

31 March 2011

# Outline

- ✿ Background
- ✿ Key features of the regulatory framework
- ✿ Introduction on the MRL/EMRL
- ✿ Preliminary List of Proposed MRLs and EMRLs for Pesticide Residues in Food in Hong Kong
- ✿ Enforcement related issues
- ✿ Way forward

# Background

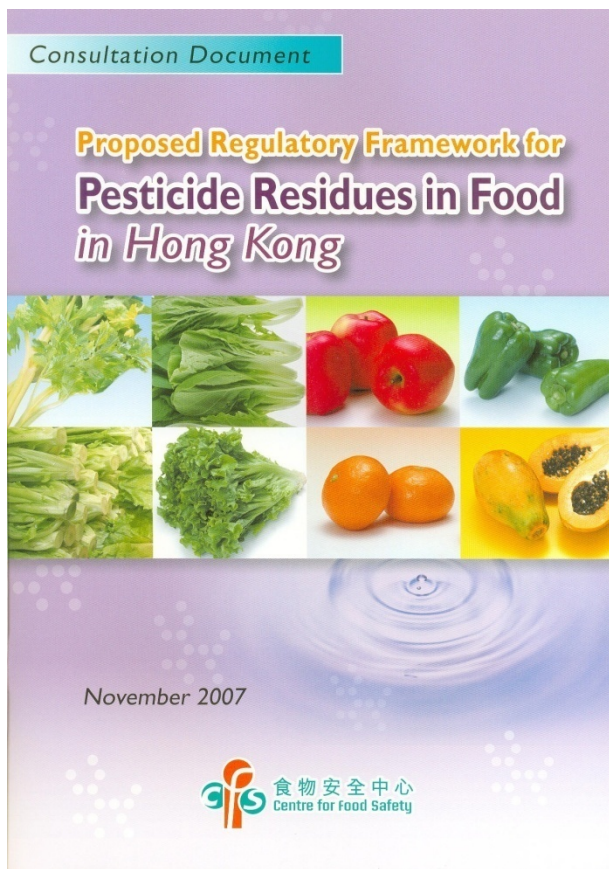
# Background (1)

- ✿ Pesticide Ordinance (Cap. 133) – AFCD
  - ✦ Import, manufacture, sale and supply of pesticides in Hong Kong
- ✿ Public Health and Municipal Services Ordinance (Cap. 132) – FEHD
  - ✦ All food on sale must be wholesome, unadulterated and fit for human consumption
  - ✦ No legal provision that specifically directs at controlling the level of pesticide residues in food

# Background (2)

- ✿ The Administration proposes to introduce a regulatory framework to regulate pesticide residues in food in Hong Kong
  - ✿ better protect public health
  - ✿ facilitate effective regulatory control
  - ✿ bring the local regulatory system in line with international standards

# Public Consultation Exercise: Nov 2007 to Jan 2008



# Background (3)

- ✿ The regulatory framework has been refined
  - ✿ Comments and views gathered from the consultation exercise
  - ✿ Latest developments in the international communities

# Key Features of the Regulatory Framework



# Main Structure of the Framework

- ✿ Reference from the Codex Alimentarius Commission (Codex)
- ✿ Salient features:
  - ⊕ Definition of “pesticides” and related terms
  - ⊕ Classification of foods
  - ⊕ A specific list of residue limits
  - ⊕ A list of exempted substances

# Definition of “Pesticides” and Other Related Terms

- ✿ Make reference mainly to definitions adopted by Codex for key terms such as pesticide, pesticide residue, maximum residue limit (MRL), extraneous maximum residue limit (EMRL)

# Classification of Food

- ✿ Since Codex standards form the backbone of the local set of standards, the Codex food classification system would be adopted for consistency
  - ✿ Uniform nomenclature used in international trade

# A Specific List of Residue Limits

- ✿ Specify the limits of pesticide residues that are allowed to be found in the specific kinds of food
- ✿ The presence of any of these pesticide residues in food at levels exceeding the specified maximum concentration (i.e. MRLs/EMRLs) for the given pesticide-food pairs will contravene the legislation, unless risk assessment indicates that the detected level is not dangerous or prejudicial to health

# A List of Exempted Substances

- ✿ MRLs/EMRLs in food are considered not necessary
- ✿ Purposes:
  - ✿ To encourage the use of natural pesticides by the trade
  - ✿ To provide transparency in enforcement when dealing with food import

# A List of Exempted Substances

- ✿ The substances used fall under the definition of pesticides; and
- ✿ Fulfill either of the following criteria:
  - ✿ the use of the pesticides do not result in residues occurring in food; or
  - ✿ the residues are identical to or indistinguishable from natural food components; or
  - ✿ the residues are of no toxicological significance or public health concern.

# Introduction to the MRL/EMRL

# Major Principles for Establishing MRLs/EMRLs (1)

- ✿ On the basis of the application of Good Agricultural Practice (GAP) with a view to reducing the use of pesticides
  - ✿ GAP includes the use of pesticides necessary for pest control which leaves a residue with the smallest amount practicable
- ✿ A residue level exceeding MRL → non-compliance with GAP



# Major Principles for Establishing MRLs/EMRLs (2)

- ✿ To ensure common food items are provided with the relevant pesticide residue levels
  - ✦ adopting Codex standards as the backbone
  - ✦ related standards of the Mainland and other major food exporting countries to Hong Kong (USA and Thailand) will also be incorporated
- ✿ A pragmatic approach
  - ✦ Hong Kong's heavy reliance on imported food

# Major Principles for Establishing MRLs/EMRLs (3)

- ✿ Scrutinized in a two-step approach
  1. Establishing the preliminary MRL list
  2. Conducting risk assessment using internationally accepted methods
    - ✦ assess whether the proposed MRLs/EMRLs are adequate to protect public health in the local setting

# Major Principles for Establishing MRLs/EMRLs (4)

- ✿ The residue limits specified in the legislation will be updated by DFEH regularly

# Dried, Dehydrated, Concentrated, Processed or Compounded Food

- ✿ The MRLs/EMRLs shall apply to any food in a dried, dehydrated or concentrated form with adjustment determined with respect to the mass of the food after dilution or reconstitution, where appropriate;
- ✿ Apart from food in a dried, dehydrated or concentrated form, the MRLs/EMRLs shall apply equally to primary food commodities and processed food;
- ✿ Any compounded food may contain any pesticide residue if the proportion of the pesticide residue present in the compounded food does not exceed, in relation to the quantity of the relevant food used, the level permitted by the MRLs/EMRLs.

# Pesticide Residues with No Specified MRL/EMRL in the Legislation

- ✿ General principle (except for exempted substances)
  - ✿ Import and sale of the concerned food will be prohibited
  - ✿ **Unless** DFEH is satisfied that the detected level of pesticide residue is not dangerous or prejudicial to health
    - Risk assessment will be conducted

# Preliminary List of Proposed MRLs and EMRLs for Pesticide Residues in Food in Hong Kong

# Preliminary List of Proposed MRLs and EMRLs (1)

- ✿ For illustration purpose to facilitate discussion with stakeholders only.
- ✿ Subject to further update and amendments based on the latest standards in the coming few months.

# Preliminary List of Proposed MRLs and EMRLs (2)

## ✿ Codex Alimentarius Commission

- ✦ MRLs and EMRLs (up to July 2008)

## ✿ Mainland China

- ✦ MRLs and EMRLs: National Standard for the People's Republic of China – Maximum residue limits for pesticides in food (GB 2763-2005)

## ✿ USA

- ✦ MRL: US Code of Federal Regulations, 40 CFR Part 180 (up to July 2008)
- ✦ EMRL: US FDA's *Compliance Policy Guides* (2000)

## ✿ Thailand

- ✦ MRL: Thai Agricultural Commodity and Food Standard (TACFS 9002-2006)
- ✦ EMRL: Thai Ministry of Public Health Notification No. 288 B.E.2548 (2005)



# Enforcement Related Issues

# Penalty

- ✿ Maximum penalty for non-compliance
  - ⊕ A fine at level 5 (\$50,000); and
  - ⊕ Imprisonment for six months.
- ✿ In line with penalty for selling food which is unfit for human consumption under section 54 of Cap. 132

# Statutory Defence

- ✿ Section 71 of Cap. 132 - conditions under which warranty may be pleaded by the defendant as defence
  - ✿ e.g., a vendor may produce evidence such as invoices to demonstrate that the food concerned is in the original state as obtained from the supplier without any further treatment and the supplier's earlier confirmation of safe food supply.

# Grace Period

- ✿ A two-year grace period is proposed
  - ✦ To allow sufficient time for the trade to comply with the new regulatory requirement
- ✿ CFS will provide briefings and technical training for different sectors
  - ✦ Specific guidelines and information for different stakeholders will be produced to familiarise them with the new regulatory framework

# Thank You