

No.825-1
1 May 2000

To: Local Governors

From: Director General, Environmental Health Bureau of the Ministry of Health and Welfare

Subject: Amendments to the Specifications and Standards of Foods and Food Additives for Mandatory Requirement of Foods and Food Additives Produced by Recombinant DNA Techniques

Today, one Ministerial Ordinance of the Ministry of Health and Welfare for amendments to “Ministerial Ordinance on Standards for Milk and Dairy Products (Ministerial Ordinance No.52-1951)” (hereinafter referred to as “Ministerial Ordinance”) and one Announcement of the Ministry of Health and Welfare for amendments to “Specifications and Standards for Foods, Food Additives and Other Related Products (Ministry of Health and Welfare Announcement No. 370-December 1959)” (hereinafter referred to as “Specifications and Standards”) were published in Official Gazette. This Ministerial Ordinance’s number is No.95-May 2000 and this Announcement’s number is No.232-May 2000.

Other two announcements enacting “Procedure of Application for Safety Assessment of Foods and Food Additives Produced by Recombinant DNA Techniques (hereinafter referred to as “Procedure of Application for Safety Assessment)” and “Standard for Manufacturing Foods and Food Additives Produced by Recombinant DNA Techniques” (hereinafter referred to as “Standard for Manufacturing”) were also published in the Official Gazette. These announcements’ numbers are No.233-May 2000 and No.234-May 2000 respectively.

The following notes should be highly paid attention to in enforcing regulations enacted by these announcements.

Notes

Section 1: Background

In late years, a new technology so called “Biotechnology” has internationally come into practical use. It is prospective that application of the biotechnology in the field of food production may lead to the improvement of food quality and productivity.

Modern biotechnology, through the use of recombinant DNA techniques, has been used for food production in these days. So it should be given attention the safety of foods and food additives produced by recombinant DNA techniques.

On this account, our countries set out “Guideline for Safety Assessment of Foods and Food Additives Produced by Recombinant DNA Techniques”(hereinafter referred to as “Guideline for Safety Assessment”) and “Guideline for Manufacturing Foods and Food Additives Produced by Recombinant DNA Techniques”(hereinafter referred to as “Guideline for Manufacturing”) in 1991.

So far, in Japan, 29 foods and 6 food additives has been evaluated based on the Guideline for Safety Assessment and declared by the Food Safety Investigation Council and have been confirmed individually by the Minister for Health and Welfare. On the other hand, there are no foods and food additives produced by recombinant microorganisms that are subject to be evaluated based on the Guideline for Manufacturing. The Guideline for Manufacturing is only applicable for assessing safety of recombinant microorganisms.

So far, the safety assessment of such foods and food additives that has been conducted based on the Guideline for Safety Assessment has been operating on a voluntary basis at this stage. And the Ministry for Health and Welfare call for developers, traders and other related persons strongly to accept the safety assessment. In this application, the safety assessment of such foods and food additives would have been done enough.

However, the Ministry of Health and Welfare decided that safety assessment of such foods and food additives should be legally imposed.

One of the reasons below:

- Such foods and food additives are developed and come into practical. In late years, such foods and food additives are expected to circulate globally and new types of foods are expected to develop. So mandatory system for assessing safety of such foods and food additives at pre-market stage is necessary, in order to avoid the distribution of any GM food that has no safety assessment.

Section 2: Summary of the Announcements

1. Ministerial Ordinance (The Ministerial Ordinance No.95-May 2000)

Standards, specifications and manufacturing methods for milk and dairy products produced by recombinant DNA techniques shall be based on the amended "Specifications and Standards".

2. Specifications and Standards (The Announcement No.232-May 2000)

1) If a food is made of all or part of organism obtained through recombinant DNA techniques, or if a food contains all or part of organism obtained through recombinant DNA techniques, the organism shall undergo examination procedure for safety assessment made by the Minister for Health and Welfare and shall be announced to the public in the Official Gazette.

2) If a food is manufactured by using microorganisms obtained through recombinant DNA techniques, or if a food contains such microorganisms shall undergo examination procedure for safety assessment made by the Minister for Health and Welfare and shall be announced to the public in the Official Gazette.

3) If food additive is manufactured by using organisms obtained through recombinant DNA techniques, such food additive shall undergo examination procedure for safety assessment made by the Minister for Health and Welfare and shall be announced to the public in the Official Gazette.

4) If foods or food additives are manufactured by using microorganisms obtained through recombinant DNA techniques, their manufacturing methods shall undergo confirmation of compliance with Standard for Manufacturing established by the Minister for Health and Welfare.

3. Procedure of Application for Safety Assessment (The announcement No.233-May 2000)

The announcement determines procedures of application for safety assessment of

foods and food additives defined in amended "Specifications and Standards".

1) The Minister for Health and Welfare shall examine the necessary documents for application on safety assessment of foods and food additives when the Minister receives the documents from applicant (such as developer, agent). The examination shall be performed on each organism basis if a food is made of all or part of organism obtained through recombinant DNA techniques, or if a food contains all or part of organism obtained through recombinant techniques. If a food or a food additive is made of / from organism obtained through recombinant DNA techniques or if a food or a food additive contains part of such organism, the examination shall be performed on each item of foods or food additives basis. .

2) The examinations shall be performed based on consultation with the Food Safety Investigation Council. And the Minister shall publish the announcement in official gazettes, indicating the fact that their safety assessment has been examined, unless there are certain risks as injurious to human health.

3) Application form shall be as stated in the announcement.

4) When, due to new scientific findings or any other reasons, it is deemed necessary to reassess the safety of foods and food additives even though it was previously examined. The Minister shall announce the result of the reassessment if any risk injurious to human health is found.

5) Regarding progeny cultivar prepared by cross hybridization between a recombinant cultivar whose safety has been examined and a conventional cultivar using traditional breeding technique (hereinafter referred to as progeny cultivars), such cultivar will be regarded as a cultivar that was made public announcement as it was gone through the examination of its safety assessment if such cultivar comply with three requirements below:

- Properties that are newly acquired through recombinant DNA techniques have not changed in progeny cultivar,
- Crossbreeding between subspecies has not been performed; or
- There is no change in the amount of ingestion, edible part or processing method, etc.

4. Standards for Manufacturing (The announcement No 234-May 2000)

The announcement determined standards for manufacturing methods of foods and food additives by using microorganisms obtained through recombinant DNA

techniques that are defined in the amended Specifications and Standards.

- 1) Standards for facilities, equipment and apparatus were hereby determined.
- 2) The Minister shall confirm whether manufacturing process of foods and food additives produced by recombinant DNA techniques comply with Standards for Manufacturing if the Minister receives application documents of such foods and food additives from manufacturers. The confirmation of the safety assessment shall be performed based on consultation with the Food Safety Investigation Council.
- 3) Proper form of application document and necessary data shall be as stated in the announcement.
- 4) Where standards for manufacturing facility in foreign countries are equal or above level of the Standard, the facility can be regarded as complying with the Standard.
- 5) Manufacturer shall report to the Minister for Health and Welfare condition of manufacturing operations of recombinants in each manufacturing facility at each starting and ending stage of the production as well as at the end of fiscal year.
- 6) Proper form of report shall be as stated in the Standards.
- 7) Manufacturer who intends to slightly change structure of facilities, equipment and apparatus shall submit notification to the Minister in order to identify the change, in advance.
- 8) The confirmation that was performed by the Minister will become invalid upon the following cases:
 - Upon death of the individual who obtained the confirmation (Upon a corporate dissolution if it is cooperation); or
 - Upon change in manufacturing process and others (except for the case defined in 6) above)

Section 3: Operational reminder

1. Procedure

- 1) Examination for safety assessment of foods and food additives defined in the announcement for “Procedure of Application for Safety Assessment” shall be performed based on the “Standard for Safety Assessment of Foods and Food Additives Produced by Recombinant DNA Techniques” attached to this notice as ANNEX I.

- 2) Submission of application documents defined in the announcements either for Procedure of Application for Safety Assessment or Standard for Manufacturing shall be performed based on the procedure as defined in ANNEX II.
- 3) Provision on GLP defined in Table I of the announcement for “Procedure of Application for Safety Assessment” is the same defined as in provisions listed below concerning implementation of safety test for medical and chemical substances:
 - Ministerial Ordinance for Standard of non clinical study on pharmaceutical safety (No.21-1997),
 - Facilities for Test defined in Article 4 of Ministerial Ordinance concerning test for novel chemical substances, or
 - Good test practices on toxicity study of pesticides (Notice of Director General, Agricultural horticulture Bureau, Ministry of Agriculture, Forestry and Fisheries whose effective date is 1 December 1999)

2. Scope of the Standard

- 1) Scope of the “Standard for Safety Assessment of Foods and Food Additives Produced by Recombinant DNA Techniques” is only seed plants produced by recombinant DNA techniques and foods or food additives produced by using recombinant microorganisms. The latter means that the recombinant microorganisms themselves are not directly consumed. Where foods and food additives are not included to the scope, it is impossible to assess their safety of such foods, for the mean while. So when foods and food additives other than seed plants and GM microorganisms in case such microorganisms themselves are directly consumed, it is necessary to assess their safety after establishing new Standards that is applicable to their safety assessment.
- 2) Safety assessment shall be performed for foods produced by recombinant DNA techniques, aside from the case when host, vector and organisms are of the same variety (in other words, self-cloning) and when organisms possessing gene structure that is the same as that of natural organism (in other words, natural occurrence). Judgement on whether foods or food additives apply to such cases or not will be performed by the Minister.
- 3) Judgement on whether a cultivar that was prepared by cross hybridization between a recombinant cultivar and a conventional one complies with the provision on No.2 of Article 5 in the announcement for Procedure of Application shall be performed by the Minister.

3. Others

- 1) The person who finds knowledge regarding the recombinant DNA techniques may be occur adverse effect to human health must be made to report the fact to the Minister.
- 2) Both examination of safety assessment defined in Article 3 of the announcement for Procedure of Application for Safety Assessment and confirmation of compliance for are only relevant to safety of recombinant DNA techniques. Therefore, safety assessment of food additives will be banned to sell unless there are approved by the Minister based on the provision of Article 6 under the Food Sanitation Law.
- 3) Facility that was given examinations base on the Article 4 of the announcement for “Procedure of Application for Safety Assessment” must be investigated by local government. The number of the investigations must be referred to the provision of Article 3 under the Ministerial Ordinance of the Food Sanitation Law.
- 4) So far, 29 foods and 6 food additives has been evaluated based on the Guideline for safety assessment and declared by the Food Safety Investigation Council and have been confirmed individually by the Minister for Health and Welfare. On the other hand, there are no foods and food additives produced by recombinant microorganisms that are subject to be evaluated based on the Guideline for manufacturing. The Guideline for manufacturing is only applicable for assessing safety of recombinant microorganisms. These foods and food additives must be given examinations that are to be performed by the Minister. The examination will be performed to review the application documents that were previously submitted to the Minister. Applicant of these application documents must prepare additional data if the Minister asks them to submit them. If foods and food additives whose application documents were previously submitted and whose examinations were not completed, it is regarded that the application documents are submitted to the Minister. In that case, applicant must prepare additional data if the Minister asks them to submit them.
- 5) Information that foods and food additives has cleared the standards will announce to Official Gazette.

Section 4: Date for enforcement

These announcements will come into effect on 1 April 2001. As for procedure of application for safety assessment, necessary procedure can start before the date.

Section 5: Others

The following notices are to be abolished today:

- Notice of Director General that was published on 26 December 1991 entitled “Guideline for Safety Assessment of Foods and Food additives,
- Notice of Directors that Divisions of Food Sanitation, Veterinary Sanitation and Food Chemistry published on 27 March 1992 entitled “Application of Guidelines for Manufacturing Foods and Food Additives obtained through Recombinant DNA Techniques and for Safety Assessment of Foods and Food Additives produced by Recombinant DNA Techniques”.

Note: This English version of the Notice is translated to meet the need of the non-Japanese speaking people. In the case of any discrepancy between the Japanese original and the English translation, the former will take priority.