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# Notice of Modification to the *List of Contaminants and Other Adulterating Substances in Foods* to Update the Maximum Level for Arsenic in Water in Sealed Containers

Notice of Modification – *List of Contaminants and Other Adulterating Substances in Foods*

Reference Number: [NOM/ADM-C-2017-1]

July 20, 2017

Bureau of Chemical Safety  
Food Directorate  
Health Products and Food Branch



Canada

## Notice of Modification to the *List of Contaminants and Other Adulterating Substances in Foods* to Update the Maximum Level for Arsenic in Water in Sealed Containers

### Summary

Food contaminants and other adulterating substances are chemicals that may be present in foods at levels that could impact the overall safety and/or quality of foods. These substances can either be inadvertently present in foods or in some cases intentionally added for fraudulent purposes. Establishing maximum levels (MLs) is a form of risk management that may be employed to reduce exposure to a particular chemical contaminant in food sold in Canada. Canadian MLs for chemical contaminants in food are set out in the [\*List of Contaminants and Other Adulterating Substances in Foods\*](#), which is incorporated by reference into Section B.15.001 of Division 15 of the *Food and Drug Regulations*, and in the [\*List of Maximum Levels for Various Chemical Contaminants in Foods\*](#), which has a history of being maintained on Health Canada's website outside of the *Food and Drug Regulations*. All MLs for contaminants in food are established by Health Canada and are enforceable by the Canadian Food Inspection Agency.

The *List of Contaminants and Other Adulterating Substances in Foods* specifies an ML of 0.1 parts per million (p.p.m.) for arsenic in water in sealed containers (commonly referred to as bottled or prepackaged water) other than mineral or spring water.

Health Canada reviewed this ML and concluded that it would be appropriate to lower the ML to 0.01 p.p.m. total arsenic in water in sealed containers, extended to apply to all types of bottled water, including mineral and spring water, which have a standard of identity under Division 12 of the [\*Food and Drug Regulations\*](#).

Consequently, Health Canada published a [\*Proposal to Update the Maximum Levels for Arsenic in Apple Juice and Water in Sealed Containers in the List of Contaminants and Other Adulterating Substances in Foods – Reference Number: \[NOP/ADP C-2017-1\]\*](#). The proposal was published on March 1, 2017 and was open to the public for comments for 75 days. No new scientific information was submitted to the Department during the comment period in response to the portion of this Notice of Proposal pertaining to water in sealed containers. However, a number of comments were received in response to Health Canada's proposal to lower the ML for arsenic in apple juice. In order for Health Canada to fully consider the information and comments received regarding that proposal, the Department will only be proceeding with a Notice of Modification for a lower ML for water in sealed containers at this time.

Since the rationale for updating the ML for water in sealed containers remains as described in the Notice of Proposal, Health Canada will be removing reference to "water in sealed containers other than mineral water or spring water" from sub-item 1(3) and adding new sub-item 1(4) to Part 2 of the *List of Contaminants and Other Adulterating Substances in Foods* to reflect an ML of 0.01 p.p.m. total arsenic in water in sealed containers, which includes mineral and spring

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water, as shown in the table below. Two footnotes, shown below, will also be added to Part 2 of the List. The existing MLs for these commodities will remain in force until these modifications are made on **May 14, 2018**.

### Modification to Part 2 of the *List of Contaminants and Other Adulterating Substances in Foods*

Item No.	Column 1 Substance	Column 2 Food <sup>1</sup>	Column 3 Maximum Level <sup>2</sup>
1	Arsenic	(4) Water in sealed containers	(4) 0.01 p.p.m.

<sup>1</sup> Maximum levels also apply to the food when it is used as an ingredient in other foods.

<sup>2</sup> Maximum levels apply to foods on a fresh weight basis. For foods that are dehydrated or concentrated, the maximum level applies to the food that is rehydrated or reconstituted to its original form or concentration, unless otherwise specified.

### Corrective Modification

Column number identifiers (e.g., “Column 1”) have been added to the column headings of Part 1 and Part 2 of the *List of Contaminants and Other Adulterating Substances in Foods*, as illustrated in the table above, for consistency with the language used in Division 15 of the *Food and Drug Regulations* to describe the List.

When the modifications described above are made, the wording “when ready-to-serve” will be removed from the “beverages” listing to avoid redundancy with footnote 2 in the *List of Contaminants and Other Adulterating Substances in Foods*.

### Rationale

As described in the Notice of Proposal, the ML for arsenic in water in sealed containers was originally established when there were sources of arsenic contamination in foods that are no longer relevant in Canada. Today, arsenic is still present in the environment but at lower levels as a result of its natural occurrence in rock and soil and release from industrial activities such as mining, smelting and ore processing.

Health Canada’s review of the previous ML supports a lower ML for total arsenic in water in sealed containers and indicates that there is no rationale for continuing to exclude mineral water and spring water from this ML. Canadian data demonstrate that the new ML is readily achievable.

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The updated ML is more protective of human health relative to the former ML and aligns with Health Canada's commitment to reduce dietary exposure to chemical contaminants in food to levels that are as low as reasonably achievable (ALARA principle).

### Other Relevant Information

As described in the Notice of Proposal, the proposed ML took into consideration the comments that were submitted in response to a technical consultation that was conducted by Health Canada in 2014. The [Summary of Comments and Responses to Health Canada's Proposed Amendments to the Regulatory Tolerances for Arsenic and Lead in a Variety of Beverages](#) was posted to Health Canada's website in January 2016.

The lower ML for total arsenic in water in sealed containers aligns with the maximum acceptable concentration for arsenic set out in the [Guideline for Canadian Drinking Water Quality](#), the Codex ML for total arsenic in natural water ([CODEX STAN 108-1981](#)), the European Union ML for total arsenic in bottled water ([Directive 2003/40/EC](#)), the United States Food and Drug Administration's allowable level for arsenic in bottled water ([21 CFR §165.110](#)) and the [World Health Organization drinking water quality guideline for arsenic](#), which was also adopted by the [Food Standards Australia New Zealand for arsenic in packaged water](#).

### Notification – Summary of Comments

In response to Health Canada's [Proposal to Update the Maximum Levels for Arsenic in Apple Juice and Water in Sealed Containers in the \*List of Contaminants and Other Adulterating Substances in Foods\* \(NOP/ADP-C-2017-1\)](#), published on March 1, 2017, Health Canada received comments from one organization regarding water in sealed containers. These comments supported the proposal for the lower ML for total arsenic in all types of water in sealed containers.

With respect to apple juice, a number of comments were received that require further consideration by the Department. As such, Health Canada is only proceeding at this time with the update to the ML for water in sealed containers.

### Implementation and Enforcement

The above modification will come into force **May 14, 2018**, the day it is published in the [List of Contaminants and Other Adulterating Substances in Foods](#); this date is twelve months following the close of the Notice of Proposal comment period.

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The Canadian Food Inspection Agency is responsible for the enforcement of the food-related aspects of the *Food and Drugs Act* and its associated regulations.

### Contact Information

Health Canada's Food Directorate is committed to reviewing any new scientific information on the chemical safety of foods. Anyone wishing to submit new scientific information relating to arsenic in water in sealed containers may do so in writing, by regular mail or electronically. If you wish to contact the Food Directorate electronically, please use the words “**arsenic ML for bottled water**” in the subject line of your e-mail.

#### Bureau of Chemical Safety

251 Sir Frederick Banting Driveway  
Tunney's Pasture, PL: 2202C  
Ottawa, Ontario K1A 0L2  
E-mail to: [bc-s-bipc@hc-sc.gc.ca](mailto:bc-s-bipc@hc-sc.gc.ca)