

# The Coming MRL Challenge in Korea

by Matt Lantz, Vice President, Global Access, Bryant Christie Inc.

With its dynamic economy, young population, high per capita income, and numerous free trade agreements, Korea has become one of the largest and fastest growing markets for agricultural exporters around the world. From the U.S. alone, over \$200 million worth of almonds and over \$100 million worth of citrus, cherries, and potato products are each exported to the country annually. What many agricultural shippers to Korea may not realize is that Korea is undertaking a major regulatory change. Unless exporters prepare for this change and work to ensure industry compliance, there could be trade disruptions.

The Korean government has announced that it intends to completely overhaul its pesticide maximum residue level (MRL) system to create a "positive" Korean MRL list by January 1, 2017 for nuts, tropical products, and seeds, and by January 1, 2019 for all other commodities. Exports to the market after these dates will need to meet the new Korean pesticide residue standards.

The current Korean MRL system is based on a "decision tree". Korea first applies a national Korean MRL if it exists. If it does not, it will use a commodity-specific international Codex MRL. If no Codex MRL exists, it will apply a Korean MRL established on a similar product. This system has allowed shipments to largely avoid pesticide residue violations when entering the market, even in cases when there is no national Korean MRL for specific chemicals used on an imported commodity.

Under the new system, the decision tree safety net goes away. Korea will only use national Korean MRLs, though if there is no Korean MRL, a default tolerance of 0.01 parts per million (ppm) will apply. In order to establish additional MRLs in Korea prior to the transition, the Korean government has asked that registrants submit data packages for review. The Korean government is charging \$5,000 per MRL to review the submission and establish new MRLs. Many registrants are working to make submissions for their compounds prior to the transition.

Other markets have successfully undertaken transitions to positive MRL lists. Japan, Taiwan, Australia, Hong Kong, Canada, and the EU have all overhauled their MRL systems in the last decade, largely with minimal trade impact. The Korean transition, however, poses several unique challenges:



**The Scope:** Bryant Christie Inc. (BCI) has conducted analysis for several commodities regarding the MRL situation in Korea during the transition. Those studies found that, depending on the commodity, U.S. growers need new Korean national MRLs for between fifty and ninety percent of the crop protection products they use. MRLs needed for import compliance for these commodities are currently covered under Korea's deferral path, but these will presumably be eliminated once the new system is in place unless data package submissions have been made and new Korean MRLs established. On average, 40-80 new MRLs in Korea are needed for each commodity.

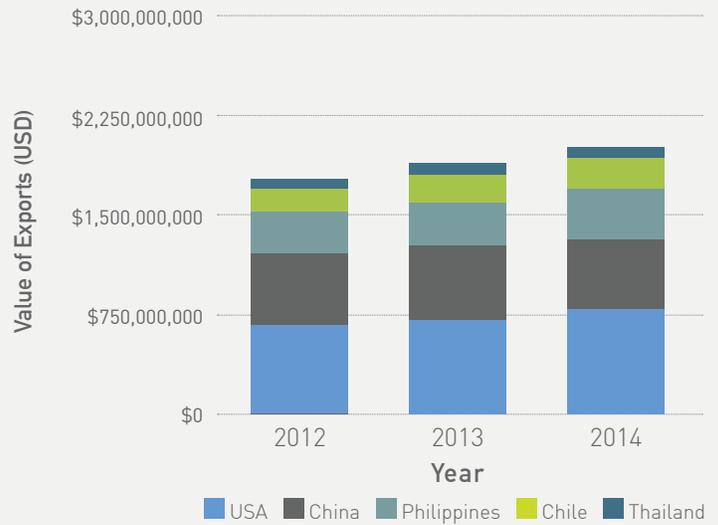
**The Cost:** Korea is charging \$5,000 per MRL. These fees are used to cover the cost of review. Although it is fair to charge for evaluations, this steep rate per MRL may discourage registrants from seeking many MRLs that are indeed needed. This would leave shipments vulnerable, especially for commodities traded in smaller volumes annually. Establishing a maximum fee for reviews that once reached, allows additional MRLs to be sought at no cost, would encourage as many needed MRLs as possible to be established.

**Post-Patent Material:** This is perhaps the most challenging aspect of the Korean transition. Crop protection products whose patents have expired are sold by numerous registrants. These registrants may or may not have the data needed to seek a MRL in Korea; they may or may not have offices in Korea that can make the submission; or they may or may not have the funds for comprehensive reviews. With multiple registrants selling the same compound, which of the companies is responsible for the submission? Failure to make a submission will result in the elimination of a Korean national MRL, and the application of the 0.01 ppm default tolerance. In recent months, responding to concerns over this issue, the Korean government has suggested that it will consider data packages submitted to Codex, the US Environmental Protection Agency or the EU when considering generic products, but the review fee will still need to be paid. This is a positive development, but such a submission has yet to be undertaken.

The Korean government has been transparent in its intentions to establish a new MRL system and how MRLs may be obtained. They have also stated that they do not want the new MRL system to cause trade disruptions; however, the transition as currently proposed has the potential to create significant problems. Crops or food products could arrive with residues that were previously compliant in Korea, but no longer have an applicable MRL. If tested, a residue could be detected and the shipment rejected. This could result in increased testing for imports of that commodity and possibly additional findings. Under a worst case scenario, additional rejections occur and products are pulled from shelves amidst media reports of “unsafe” food entering the market.

To avoid such a scenario, growers, exporters, and their trade associations must work with registrants now to ensure timely MRL applications are being made, and they must inform their governments that the Korean MRL transition needs to be carefully tracked. If it appears that MRLs will not be in place by Korea’s deadlines, alternative solutions

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Source: UN Comtrade

should be discussed. Options could include a delay in implementation date, a plan to maintain the current system while new reviews are underway, or the establishment of temporary MRLs that can be reviewed and adjusted later. These options have been offered in other regulatory transitions. Finally, the option to address generic compounds provided by the Korean government must be tested to determine if the offered solution is feasible.

Korea has every right as a sovereign country to establish a national MRL list. How that transition takes place and whether it will affect exports to the market remains to be seen.

**GlobalMRL.com, a service of Bryant Christie Inc., provides MRL regulations for over 900 active ingredients, 700 commodities and 110 markets – including Korea. GlobalMRL.com is a valuable resource for providing up-to-date insights across all stages of the regulatory process. This is especially important during major transitions like the one currently underway in the Korean market.**



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