

COMMISSION REGULATION (EU) No 212/2010

of 12 March 2010

amending Regulation (EC) No 669/2009 implementing Regulation (EC) No 882/2004 of the European Parliament and of the Council as regards the increased level of official controls on imports of certain feed and food of non-animal origin

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Article 8(1)(b) of that Regulation, in order to avoid any difficulties in interpreting Article 19 thereof.

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety ⁽¹⁾, and in particular Article 53(1) thereof,

Having regard to Regulation (EC) No 882/2004 of the European Parliament and of the Council of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules ⁽²⁾, and in particular Articles 15(5) and 63(1) thereof,

Whereas:

(1) Commission Regulation (EC) No 669/2009 ⁽³⁾ lays down rules concerning the increased level of official controls to be carried out on imports of certain feed and food of non-animal origin at points of entry into the territories listed in Annex I to Regulation (EC) No 882/2004. In particular, Annex I to Regulation (EC) No 669/2009 lists feed and food of non-animal origin that is to be subject to an increased level of official controls.

(2) Article 19 of Regulation (EC) No 669/2009 containing transitional measures needs to be amended so that the terminology used therein is consistent with that used in

(3) After the publication of Regulation (EC) No 669/2009, a number of Member States advised the Commission of the need for more precise definitions for certain CN codes used in Part A of Annex I to that Regulation, in order to facilitate the identification of the products covered by those definitions, as well as the need for technical clarifications to be provided in certain footnotes in that Annex.

(4) The Commission was also advised of the need to include a specific list of pesticide residues as hazards in vegetables, fresh, chilled or frozen (food), in the list in Part A of Annex I to Regulation (EC) No 669/2009, in order to take into consideration the Rapid Alert System for Food and Feed notifications received during the last three years.

(5) In the interests of clarity, further technical clarifications are needed with reference to the Notes for Guidance for the common entry document set out in Annex II to Regulation (EC) No 669/2009.

(6) Regulation (EC) No 669/2009 should therefore be amended accordingly.

(7) Regulation (EC) No 669/2009 is to apply from 25 January 2010. Accordingly, this Regulation should also apply from that date.

(8) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

⁽¹⁾ OJ L 31, 1.2.2002, p. 1.

⁽²⁾ OJ L 165, 30.4.2004, p. 1.

⁽³⁾ OJ L 194, 25.7.2009, p. 11.

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 669/2009 is amended as follows:

1. Article 19 is replaced by the following:

'Article 19

Transitional measures

1. For a period of five years from the date of entry into force of this Regulation, where a designated point of entry is not equipped with the facilities required to carry out identity and physical checks as provided for in Article 8(1)(b), those checks may be carried out at another control point in the same Member State, authorised for that purpose by the competent authority, before goods are declared for release

for free circulation, provided that such control point complies with the minimum requirements laid down in Article 4.

2. Member States shall make publicly available, by electronic publication on their website, a list of the control points authorised in accordance with paragraph 1.'

2. The Annexes are amended in accordance with the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Union*.

It shall apply from 25 January 2010.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 12 March 2010.

For the Commission
The President
José Manuel BARROSO

ANNEX

Annexes I and II to Regulation (EC) No 669/2009 are amended as follows:

1. Annex I is amended as follows:

(a) Part A is replaced by the following:

(A) Feed and food of non-animal origin subject to an increased level of official controls at the designated point of entry

Feed and food (intended use)	CN code ⁽¹⁾	Country of origin	Hazard	Frequency of physical and identity checks (%)
Groundnuts (peanuts) and derived products (feed and food)	1202 10 90; 1202 20 00; 2008 11	Argentina	Aflatoxins	10
Groundnuts (peanuts) and derived products (feed and food)	1202 10 90; 1202 20 00; 2008 11	Brazil	Aflatoxins	50
Trace elements (feed and food) ⁽²⁾	2817 00 00; 2820; 2821; 2825 50 00; 2833 25 00; 2833 29 20; 2833 29 80; 2836 99	China	Cadmium and lead	50
Groundnuts (peanuts) and derived products (feed and food), in particular peanut butter (food)	1202 10 90; 1202 20 00; 2008 11	Ghana	Aflatoxins	50
Spices (food): — <i>Capsicum</i> spp. (dried fruits thereof, whole or ground, including chillies, chilli powder, cayenne and paprika) — <i>Myristica fragrans</i> (nutmeg) — <i>Zingiber officinale</i> (ginger) — <i>Curcuma longa</i> (turmeric)	0904 20; 0908 10 00; 0908 20 00; 0910 10 00; 0910 30 00	India	Aflatoxins	50
Groundnuts (peanuts) and derived products (feed and food)	1202 10 90; 1202 20 00; 2008 11	India	Aflatoxins	10
Melon (egusi) seeds and derived products ⁽³⁾ (food)	ex 1207 99	Nigeria	Aflatoxins	50
Dried vine fruit (food)	0806 20	Uzbekistan	Ochratoxin A	50
Chilli, chilli products, curcuma and palm oil (food)	0904 20 90; 0910 91 05; 0910 30 00; ex 1511 10 90	All third countries	Sudan dyes	20

Feed and food (intended use)	CN code ⁽¹⁾	Country of origin	Hazard	Frequency of physical and identity checks (%)
Groundnuts (peanuts) and derived products (feed and food)	1202 10 90; 1202 20 00; 2008 11	Vietnam	Aflatoxins	10
Basmati rice for direct human consumption (food)	ex 1006 30	Pakistan	Aflatoxins	50
Basmati rice for direct human consumption (food)	ex 1006 30	India	Aflatoxins	10
Mangos, yard long beans (<i>Vigna sesquipedalis</i>), melon bitter (<i>Momordica charantia</i>), Lauki, (<i>Lagenaria siceraria</i>), peppers and aubergines (food)	ex 0804 50 00; 0708 20 00; 0807 11 00; ex 0709 90 90; 0709 60; 0709 30 00	Dominican Republic	Pesticide residues analysed with multiresidue methods based on GC-MS and LC-MS or with single residue methods (*)	50
Bananas	0803 00 19	Dominican Republic	Pesticide residues analysed with multiresidue methods based on GC-MS and LC-MS or with single residue methods (*)	10
Vegetables, fresh, chilled or frozen (peppers, courgettes and tomatoes)	0709 60; 0709 90 70; 0702 00 00	Turkey	Pesticides: methomyl and oxamyl	10
Pears	0808 20 10; 0808 20 50	Turkey	Pesticide: amitraz	10
Vegetables, fresh, chilled or frozen (food) — yard long beans (<i>Vigna sesquipedalis</i>) — aubergines — Brassica vegetables	0708 20 00; 0709 30 00; 0704;	Thailand	Pesticide residues analysed with multiresidue methods based on GC-MS and LC-MS or with single residue methods (**)	50

(*) In particular residues of: Amitraz, Acephate, Aldicarb, Benomyl, Carbendazim, Chlorfenapyr, Chlorpyrifos, CS2 (Dithiocarbamates), Diafenthiuron, Diazinon, Dichlorvos, Dicofol, Dimethoate, Endosulfan, Fenamidone, Imidacloprid, Malathion, Methamidophos, Methiocarb, Methomyl, Monocrotophos, Omethoate, Oxamyl, Profenofos, Propiconazole, Thiabendazol, Thiacloprid.

(**) In particular residues of: Acephate, Carbaryl, Carbendazim, Carbofuran, Chlorpyrifos, Chlorpyrifos-ethyl, Dime-thoate, Ethion, Malathion, Metalaxyl, Methamidophos, Methomyl, Monocrotophos, Omethoate, Prophenophos, Prothiophos, Quinalphos, Triadimefon, Triazophos, Dicrotophos, EPN, Triforine.

(1) Where only certain products under any CN code are required to be examined and no specific subdivision under that code exists in the goods nomenclature, the CN code is marked "ex" (for example, ex 1006 30: only Basmati rice for direct human consumption is included).

(2) The trace elements referred to in this entry are the trace elements belonging to the functional group of compounds of trace elements referred to in point 3(b) of Annex I to Regulation (EC) No 1831/2003 of the European Parliament and of the Council (OJ L 268, 18.10.2003, p. 29).

(3) The maximum levels established for aflatoxins in groundnuts and derived products listed in points 2.1.1 and 2.1.3 of Section 2 of the Annex to Commission Regulation (EC) No 1881/2006 (OJ L 364, 20.12.2006, p. 5) shall be the reference points for action.'

(b) In Part B, point (d) is replaced by the following:

'(d) "palm oil", means red palm oil falling within CN code 1511 10 90, intended for direct human consumption;'

2. In Annex II, the 'Notes for guidance for the CED' are replaced by the following:

'Notes for guidance for the CED

General: Complete the common entry document in capital letters. Notes are shown against the relevant box number.

Part I **This Part is to be completed by the feed and food business operator or their representative, unless otherwise indicated.**

Box I.1. Consignor: name and full address of the natural or legal person (feed and food business operator) dispatching the consignment. Information concerning telephone and fax numbers or an e-mail address is recommended.

Box I.2. This box must be filled in by the competent authority of the designated point of entry (DPE).

Box I.3. Consignee: name and full address of the natural or legal person (feed and food business operator) to whom the consignment is destined. Information on telephone and fax numbers or an e-mail address is recommended.

Box I.4. The person responsible for the consignment: the person (feed and food business operator or their representative or the person making the declaration on their behalf) who is in charge of the consignment when it is presented at the DPE and who makes the necessary declarations to the competent authority at the DPE on behalf of the importer. Insert the name and full address. Information on telephone and fax numbers or an e-mail address is recommended.

Box I.5. Country of origin: this refers to the third country where the commodity is originating from, grown, harvested or produced.

Box I.6. Country from where consigned: this refers to the third country where the consignment was placed aboard the means of final transport for the journey to the Union.

Box I.7. Importer: name and full address. Information on telephone and fax numbers or an e-mail address is recommended.

Box I.8. Place of destination: delivery address in the Union. Information on telephone and fax numbers or an e-mail address is recommended.

Box I.9. Arrival at DPE: insert the estimated date on which the consignment is expected to arrive at the DPE.

Box I.10. Documents: insert the date of issue and the number of official documents accompanying the consignment, as appropriate.

Box I.11. Give full details of the means of arrival transport: for aircrafts the flight number, for vessels the ship name, for road vehicles the registration number plate with trailer number if appropriate, for railway vehicles the train identity and wagon number.

Documentary references: number of airway bill, bill of lading or commercial number for railway or road vehicle.

Box I.12. Description of the commodity: provide a detailed description of the commodity (including for feed the type of feed).

Box I.13. Commodity or HS code of the Harmonized System of the World Customs Organization.

- Box I.14. Gross weight: overall weight in kg. This is defined as the aggregate mass of the products and of the immediate containers and all their packaging, but excluding transport containers and other transport equipment.
- Net weight: weight of actual product in kg, excluding packaging. This is defined as the mass of the products themselves without immediate containers or any packaging.
- Box I.15. Number of packages.
- Box I.16. Temperature: tick the appropriate mode of transport/storage temperature.
- Box I.17. Type of packages: identify the type of packaging of products.
- Box I.18. Commodity intended for: tick the appropriate box depending on whether the commodity is destined for human consumption without prior sorting or other physical treatment (in this case tick "human consumption") or is intended for human consumption after such treatment (tick "further process" in this case), or is intended for use as "feedingstuff" (in this case tick "feedingstuffs").
- Box I.19. Give all seal and container identification numbers where relevant.
- Box I.20. Transfer to a control point: During the transitional period provided for in Article 19(1), the DPE shall tick this box to allow onward transportation to another control point.
- Box I.21. Not applicable.
- Box I.22. For import: this box is to be ticked where the consignment is intended for importation into the Union (Article 8).
- Box I.23. Not applicable.
- Box I.24. Tick the appropriate means of transport.
- Part II This Part is to be completed by the competent authority.**
- Box II.1. Use the same reference number as in Box I.2.
- Box II.2. For use by customs services, if necessary.
- Box II.3. Documentary check: to be completed for all consignments.
- Box II.4. The competent authority of the DPE shall indicate whether the consignment is selected for physical checks, which during the transitional period provided for in Article 19(1) may be carried out at a different control point.
- Box II.5. The competent authority of the DPE shall indicate, during the transitional period provided for in Article 19(1), following a satisfactory documentary check, to which control point the consignment may be transported in order for identity and physical checks to be carried out.
- Box II.6. Indicate clearly the action to be taken in the case of rejection of the consignment due to the unsatisfactory outcome of the documentary checks. The address of the establishment of destination in case of "Re-dispatching", "Destruction", "Transformation" and "Use for other purpose" must be entered in Box II.7.
- Box II.7. Give as appropriate approval number and address (or ship name and port) for all destinations where further control of the consignment is required, for example for Box II.6, "Re-dispatching", "Destruction", "Transformation" or "Use for other purpose".
- Box II.8. Put the official stamp of the competent authority of the DPE here.
- Box II.9. Signature of the responsible official of the competent authority of the DPE.
- Box II.10. Not applicable.

- Box II.11. The competent authority of the DPE or, during the transitional period provided for in Article 19(1), the competent authority of the control point, shall indicate the results of the identity checks here.
- Box II.12. The competent authority of the DPE or, during the transitional period provided for in Article 19(1), the competent authority of the control point, shall indicate the results of the physical checks here.
- Box II.13. The competent authority of the DPE or, during the transitional period provided for in Article 19(1), the competent authority of the control point, shall indicate the results of the laboratory test here. Complete this box with the category of substance or pathogen for which a laboratory test has been carried out.
- Box II.14. This box is to be used for all consignments to be released for free circulation within the Union.
- Box II.15. Not applicable.
- Box II.16. Indicate clearly the action to be taken in the case of rejection of the consignment due to the unsatisfactory outcome of the identity or physical checks. The address of the establishment of destination in case of "Re-dispatching", "Destruction", "Transformation" and "Use for other purpose" must be entered in Box II.18.
- Box II.17. Reasons for refusal: use, as appropriate, to add relevant information. Tick the appropriate box.
- Box II.18. Give, as appropriate, the approval number and address (or ship name and port) for all destinations where further control of the consignment is required, for example, for Box II.16, "Re-dispatching", "Destruction", "Transformation" or "Use for other purpose".
- Box II.19. Use this box when the original seal recorded on a consignment is destroyed on opening the container. A consolidated list of all seals that have been used for this purpose must be kept.
- Box II.20. Put the official stamp of the competent authority of the DPE here or, during the transitional period provided for in Article 19(1), of the competent authority of the control point.
- Box II.21. Signature of the responsible official of the competent authority of the DPE or, during the transitional period provided for in Article 19(1), of the competent authority of the control point.

Part III This Part is to be completed by the competent authority.

- Box III.1. Details on re-dispatching: the competent authority of the DPE or, during the transitional period provided for in Article 19(1), the competent authority of the control point, shall indicate the means of transport used, its identification details, the country of destination and the date of re-dispatching, as soon as they are known.
- Box III.2. Follow-up: indicate the Local Competent Authority Unit responsible, as appropriate, for the supervision in case of "Destruction", "Transformation" or "Use for other purpose" of the consignment. That authority shall report the result of the arrival of the consignment and the correspondence of the consignment in this box.
- Box III.3. Signature of the responsible official for the competent authority of the DPE or, during the transitional period provided for in Article 19(1), the responsible official for the control point, in case of "Re-dispatching". Signature of the responsible official for the local competent authority in case of "Destruction", "Transformation" or "Use for other purpose".
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