Commission Regulation (EU) No 178/2010 of 2 March 2010 amending Regulation (EC) No 401/2006 as regards groundnuts (peanuts), other oilseeds, tree nuts, apricot kernels, liquorice and vegetable oil (Text with EEA relevance)

COMMISSION REGULATION (EU) No 178/2010

of 2 March 2010

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(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

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[(1)], in particular Article 11(4),

Whereas:

(1) Commission Regulation (EC) No 1881/2006 of 19 December 2006 setting maximum levels for certain contaminants in foodstuffs[(2)] provides for maximum limits for certain mycotoxins in certain foodstuffs.

(2) Sampling plays a crucial part in the precision of the determination of the levels of mycotoxins, which are very heterogeneously distributed in a lot. It is therefore necessary to fix general criteria which the sampling method should comply with.

(3) Commission Regulation (EC) No 401/2006 of 23 February 2006 laying down the methods of sampling and analysis for the official control of the levels of mycotoxins in foodstuffs[(3)] establishes the criteria for the sampling for the control of the levels of mycotoxins.

(4) It is necessary to amend certain provisions for sampling aflatoxins in certain foodstuffs to take into account developments in Codex Alimentarius and to take into account recently established maximum levels of mycotoxins for new categories of foodstuffs.

(5) Codex Alimentarius established a new sampling plan for groundnuts (peanuts), almonds, hazelnuts and pistachios intended for further processing and a new sampling plan for almonds, hazelnuts and pistachios ‘ready-to-eat’[(4)].

(6) To facilitate the enforcement of the maximum levels of aflatoxins, it is appropriate to apply the sampling provisions as provided for by Codex Alimentarius for peanuts, almonds, hazelnuts and pistachios intended for further processing as well to other tree nuts which are intended for further processing and the sampling provisions as provided for by Codex for almonds, hazelnuts and pistachios ‘ready-to-eat’ to other tree nuts and groundnuts (peanuts) ‘ready-to-eat’. The sampling procedure for tree nuts should also

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EU) No 178/2010. (See end of Document for details)*

be applied to apricot kernels. Part D of the Annex I to Regulation (EC) No 401/2006 should therefore be amended accordingly to provide only for the sampling procedure for dried figs which should remain unchanged and the new sampling procedure for groundnuts (peanuts), other oilseeds, apricot kernels, tree nuts should be provided in a separate Part of the Annex.

(7) Maximum levels have been established for aflatoxins in oilseeds other than groundnuts (peanuts)[(5)] and for ochratoxin A in spices, liquorice root and liquorice extract[(6)]. It is appropriate to provide for specific sampling provisions for these new categories of foodstuffs and to refer to existing provisions where applicable.

(8) The sampling of vegetable oils for the control of mycotoxins has specific characteristics and it is therefore appropriate to provide for specific sampling rules.

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

HAS ADOPTED THIS REGULATION:

Article 1

Annex I to Regulation (EC) No 401/2006 is amended as follows:

1. Part D is replaced by the text set out in Annex I to this Regulation.

2. In Part E, the first sentence is replaced by the following:

> This method of sampling is of application for the official control of the maximum levels established for ochratoxin A, aflatoxin B1 and total aflatoxins in spices.

3. Part G is replaced by the text set out in Annex II to this Regulation.

4. A Part K, as set out in Annex III to this Regulation, is added.

Article 2

This Regulation shall enter into force on the 10th day following its publication in the *Official Journal of the European Union*.

It shall apply from the date of entry into force.

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

Done at Brussels, 2 March 2010.

For the Commission

The President

José Manuel BARROSO

***Changes to legislation:** There are currently no known outstanding effects for the Commission Regulation (EU) No 178/2010. (See end of Document for details)*

ANNEX I

D.1. **Method of sampling for dried figs**

This method of sampling is of application for the official control of the maximum levels established for aflatoxin B1 and total aflatoxins in dried figs.

D.1.1. *Weight of the incremental sample*

The weight of the incremental sample shall be about 300 grams, unless otherwise defined in part D.1 of Annex I.

In the case of lots in retail packings, the weight of the incremental sample depends on the weight of the retail packing.

In the case of retail packs of more than 300 grams, this will result in aggregate samples weighing more than 30 kg. If the weight of a single retail pack is much more than 300 grams, then 300 grams shall be taken from each individual retail pack as an incremental sample. This can be done either when the sample is taken or in the laboratory. However, in cases where such method of sampling would lead to unacceptable commercial consequences resulting from damage to the lot (because of packaging forms, means of transport, etc.), then an alternative method of sampling can be applied. For example, in case where a valuable product is marketed in retail packs of 500 grams or 1 kg, the aggregate sample can be obtained by the aggregation of a number of incremental samples that is smaller than the number indicated in tables 1, 2 and 3, on the condition that the weight of the aggregate sample corresponds to the required weight of the aggregate sample mentioned in tables 1, 2 and 3.

Where the retail pack is less than 300 grams and if the difference is not very large, one retail pack shall be considered as one incremental sample, resulting in an aggregate sample of less than 30 kg. If the weight of the retail pack is much less than 300 grams, one incremental sample shall consist of two or more retail packs, whereby the 300 grams are approximated as closely as possible.

D.1.2. *General survey of the method of sampling for dried figs*

TABLE 1

Subdivision of lots into sublots depending on product and lot weight

Commodity	Lot weight (tonne)	Weight or number of sublots	No incremental samples	Aggregate sample weight (kg)
Dried figs	≥ 15	15-30 tonnes	100	30
	< 15	—	10-100[a]	≤ 30

a Depending on the lot weight — see table 2 of this part D.1 of this Annex.

D.1.3. *Method of sampling for dried figs (lots ≥ 15 tonnes)*

— On condition that the sublot can be separated physically, each lot shall be subdivided into sublots following table 1. Taking into account that the weight of the lot is not always an exact multiple of the weight of the sublots, the weight of the sublot may exceed the mentioned weight by a maximum of 20 %.

— Each sublot shall be sampled separately,

— Number of incremental samples: 100,

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— Weight of the aggregate sample = 30 kg which shall be mixed and to be divided into three equal laboratory samples of 10 kg before grinding (this division into three laboratory samples is not necessary in case of dried figs subjected to further sorting or other physical treatment and of the availability of equipment which is able to homogenise a 30 kg sample).

— Each laboratory sample of 10 kg shall be separately ground finely and mixed thoroughly to achieve complete homogenisation, in accordance with the provisions laid down in Annex II,

— If it is not possible to carry out the method of sampling described above because of the unacceptable commercial consequences resulting from damage to the lot (because of packaging forms, means of transport, etc.) an alternative method of sampling may be applied provided that it is as representative as possible and is fully described and documented.

D.1.4. *Method of sampling for dried figs (lots < 15 tonnes)*

The number of incremental samples to be taken depends on the weight of the lot, with a minimum of 10 and a maximum of 100.

The figures in the following table 2 may be used to determine the number of incremental samples to be taken and the subsequent division of the aggregate sample.

TABLE 2

Number of incremental samples to be taken depending on the weight of the lot and number of subdivisions of the aggregate sample

Lot weight (tonnes)	No of incremental samples	Aggregate sample Weight (kg) (in case of retail packings, weight of aggregate sample can diverge — see point D.1.1)	No of laboratory samples from aggregate sample
≤ 0,1	10	3	1 (no division)
> 0,1 – ≤ 0,2	15	4,5	1 (no division)
> 0,2 – ≤ 0,5	20	6	1 (no division)
> 0,5 – ≤ 1,0	30	9 (- < 12 kg)	1 (no division)
> 1,0 – ≤ 2,0	40	12	2
> 2,0 – ≤ 5,0	60	18 (- < 24 kg)	2
> 5,0 – ≤ 10,0	80	24	3
> 10,0 – ≤ 15,0	100	30	3

— Weight of the aggregate sample ≤ 30 kg which shall be mixed and divided into two or three equal laboratory samples of ≤ 10 kg before grinding (this division into two or three laboratory samples is not necessary in case of dried figs, subjected to further sorting or other physical treatment and of the availability of equipment which is able to homogenise up to 30 kg samples).

In cases where the aggregate sample weights are less than 30 kg, the aggregate sample shall be divided into laboratory samples according to following guidance:

— < 12 kg: no division into laboratory samples;

— ≥ 12 – < 24 kg: division into two laboratory samples;

— ≥ 24 kg: division into three laboratory samples.

— Each laboratory sample shall be separately ground finely and mixed thoroughly to achieve complete homogenisation, in accordance with the provisions laid down in Annex II,

— If it is not possible to carry out the method of sampling described above because of the unacceptable commercial consequences resulting from damage to the lot (because of packaging forms, means of transport, etc.) an alternative method of sampling may be applied provided that it is as representative as possible and is fully described and documented.

D.1.5. *Method of sampling for derived products and compound foods*

D.1.5.1. *Derived products with very small particle weight (homogeneous distribution of aflatoxin contamination)*

— Number of incremental samples: 100; for lots of under 50 tons the number of incremental samples shall be 10 to 100, depending on the lot weight (see table 3),

TABLE 3

Number of incremental samples to be taken depending on the weight of the lot

Lot weight (tonnes)	No of incremental samples	Aggregate sample weight (kg)
≤ 1	10	1
> 1 – ≤ 3	20	2
> 3 – ≤ 10	40	4
> 10 – ≤ 20	60	6
> 20 – ≤ 50	100	10

— The weight of the incremental sample shall be about 100 grams. In the case of lots in retail packing, the weight of the incremental sample depends on the weight of the retail packing,

— Weight of aggregate sample = 1-10 kg sufficiently mixed,

D.1.5.2. *Other derived products with a relatively large particle size (heterogeneous distribution of aflatoxin contamination)*

Method of sampling and acceptance as for dried figs (D.1.3 and D.1.4).

D.1.6. *Sampling at retail stage*

Sampling of foodstuffs at the retail stage shall be done where possible in accordance with the provisions set out in this part of Annex I.

Where that is not possible, other effective methods of sampling at retail stage may be used provided that they ensure that the aggregate sample is sufficiently representative of the sampled lot and is fully described and documented. In any case, the aggregate sample shall be at least 1 kg[7].