

To: Interested parties – see attached list

14 December, 2009

Reference: OCR 005

Dear Sir/Madam,

COMMISSION REGULATION (EC) No 669/2009 AS REGARDS THE INCREASED LEVEL OF OFFICIAL CONTROLS ON IMPORTS OF CERTAIN FEED AND FOOD OF NON-ANIMAL ORIGIN (NON-POAO) AND AMENDING DECISION 2006/504/EC

1. The European Commission has just issued a draft Commission Regulation that will amend the above Regulation that will enter into application on the same date - **25 January 2010** and is proposing to present this for vote at the 12 January meeting of the Standing Committee on the Food Chain and Animal Health (SCoFCAH). In view of this, I would appreciate comments on the latest text **as soon as possible and by Wednesday 6 January 2010** at the latest. My contact details are given below.

2. The Commission intends to amend Regulation (EC) No 669/2009 in response to comments received from some Member States about the need to provide more accurate definitions of certain CN codes used in Annex I to the Regulation, so that products caught by those definitions can be better identified. Also, the proposed amendments contain some minor technical clarifications.

Latest Commission text

3. A copy of the amending Regulation is at Appendix 1 to this letter. The proposed amendments provide technical clarification regarding:

- definitions for certain CN codes used in part A of Annex I to the Regulation;
- references to certain articles to be provided in footnotes to that Annex and
- the notes for guidance for the Common Entry Document set out in Annex II to the Regulation.

The Commission has also included in Part A of Annex 1 a specific list of pesticide residues that constitute a hazard in vegetables, fresh, chilled or frozen (food). In order to facilitate reading, the more relevant changes are highlighted in the text.

4. We will keep you informed of further developments but, in the meantime, please get in touch with me or with Donatella Howe on 020 7276 8720 (email: Donatella.Howe@foodstandards.gsi.gov.uk) if you wish to discuss any of the above.

Yours faithfully,

Rufina Acheampong
Official Control and Enforcement Policy Team



EUROPEAN COMMISSION

Brussels,
C(2009)

final

Draft

COMMISSION REGULATION

of 2009

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)

Draft

COMMISSION REGULATION

of

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

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

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 safety¹, 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 rules², and in particular Articles 15(5) and 63(1) thereof,

Whereas:

- (1) Commission Regulation (EC) No 669/2009³ 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 Article 8(1)(b) of that Regulation, in order to avoid any difficulties in interpreting that Article.
- (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

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.

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,

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 point of control 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

Appendix 1

This Regulation shall enter into force on the third day following that of 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,

For the Commission
[President]

ANNEX

Annexes I and II are amended as follows:

(1) Annex I is amended as follows:

(a) Part A is replaced by the following:

'ANNEX I

(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⁽⁹⁾	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⁾ (footnote 3 deleted)	2817 00 00; 2820; 28 21; 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): <ul style="list-style-type: none"> • Capsicum spp (dried fruits thereof, whole or ground, including chillies, chilli powder, cayenne and paprika) • Myristica fragrans (nutmeg) • Zingiber officinale (ginger) • Curcuma longa (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

Appendix 1

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
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) <ul style="list-style-type: none"> • yard long beans (<i>Vigna sesquipedalis</i>) • aubergines • Brassica vegetables 	0708 20 00; 0709 30 00; 0704;	Thailand	Pesticide residues analysed with Multi-residue 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, Dimethoate, 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) Pending the establishment of maximum levels for aflatoxin in melon seeds, 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 email address is recommended.

Box I.2. This box must be filled in by the competent authorities of the designated point of entry (DPE). (article 3 is deleted)

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 concerning telephone and fax numbers or email address is recommended.

Box I.4. Person responsible for the consignment: the person (feed and food business operator or their representative or 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 concerning telephone and fax numbers or email address is recommended.

- Box I.5. **Third** country of origin: this refers to the **third** country where the commodity is originating from, grown, harvested or produced.
- Box I.6. **Third** 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 concerning telephone and fax numbers or email address is recommended.
- Box I.8. Place of destination: delivery address in the Union. Information concerning telephone and fax numbers or email address is recommended.
- Box I.9. Arrival at the 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 railways 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 point of control.
- 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 point of control.
- 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 point of control 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 ("or identity" is deleted) 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 referred to in Article 19(1), the competent authority of the point of control, shall indicate the results of the identity checks here.

Appendix 1

- Box II.12. The competent authority of the DPE or, during the transitional period referred to in Article 19(1), the competent authority of the point of control, shall indicate the results of the physical checks here.
- Box II.13. The competent authority of the DPE or, during the transitional period referred to in Article 19(1), the competent authority of the point of control, shall indicate the results of the laboratory test here. Complete this box with the category of substance or pathogen for which a laboratory test is 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 carried out in the case of rejection of the consignment due to the unsatisfactory outcome of the identity or physical checks. The address of the destination establishment 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 referred to 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 referred to in Article 19(1), of the competent authority of the point of control.

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 referred to 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

results 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 referred to in Article 19(1), the responsible official for the point of control, 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'.

Interested parties

ADAS Drayton
Agricultural Industries
Confederation
Agricultural Industries
Confederation
Allied Bakeries Ltd
Allied Technical Centre
American Peanut Council
Associated British Foods plc
Association of Convenience Stores
Association of Port Health
Authorities (APHA)
Association of Public Analysts of
Scotland
Assured Food Standards
Besana UK Ltd
BEUC - The European Consumers'
Organisation
Booker Ltd
Bourne Salads
Brent Council
Bristol City Council Scientific
Services
British Association of Feed
Supplement & Additive
Manufacturers Ltd
British Beer and Pub Association
British Chambers of Commerce
British Coffee Association
British Food Importers and
Distributors Association
British Frozen Food Federation
British Fruit Juice Association
British Hospitality Association
British Leafy Salads Association
Ltd
British Medical Association
British Peanut Council Ltd
British Pharmacopoeia Secretariat
British Pharmacopoeia Secretariat
British Retail Consortium
British Retail Consortium
British Soft Drinks Association Ltd
British Starch Industry Association
British Sugar plc
British Veterinary Association
Britvic plc
Cambridge Manufacturing Limited
Campden BRI
Campden BRI
Cargill Europe Limited
Cereal Partner UK
Chartered Institute of
Environmental Health
Chartered Institute of
Environmental Health
Chartered Institute of
Environmental Health Wales
Chilled Food Association Ltd
City of London Corporation
CJ Wildbird Foods Limited
Coca-Cola Great Britain & Ireland
COCOA ASSOCIATION OF
LONDON LTD
Coffee Science Information Centre
Confederation of British Industry
Confederation of British Industry
Consumer Council for Northern
Ireland
Consumer Focus
Consumer Focus Scotland
Consumer Focus Wales
Council of National Beekeeping
Association in the
Crop Protection Association
Crown Packaging UK PLC
Dairy UK Ltd
Dairy UK Scotland
DEL MONTE FOODS (UK) LTD
Department of Agriculture and
Rural Developments
English Apples & Pears Ltd
Eurofins Laboratories Limited
European Snacks Association /
SNACMA
FDF
Federation of Bakers
Federation of Small Businesses
Federation of Wholesale
Distributors
Findus Ltd
Food Additives and Ingredients
Association
Food and Drink Federation
Food and Drink Federation
Food and Drink Federation

Food and Drink Federation
Food and Drink Federation
Food and Environment Research
Agency
FOOD DIALOG
Foodaware
FOSFA International
Fresh Produce Consortium
Gala Coffee Limited
Grain and Feed Trade Association
Greencore Group
Harper Adams University College
Health Food Manufacturers'
Association
Health Food Manufacturers'
Association
Health Nutrition and Research UK
Limited
Health Protection Agency
Health Protection Scotland
Holland & Barrett Retail Limited
Holland & Barrett Retail Limited
Horticulture Development
Company
Infant and Dietetic Foods
Association
Institute of Food Research
Institute Of Food Science &
Technology
International Food Hygiene
Magazine
International Pectin Producers'
Association
J Sainsbury plc
J Sainsbury plc
Julian Graves Ltd
Kellogg Europe Trading Limited
KETTLE FOODS
LEAF - Linking Environment And
Farming
Leatherhead Food International
Livestock and Meat Commission
for Northern Ireland
Local Authorities Co-ordinators of
Regulatory Service
Local Authorities Co-ordinators of
Regulatory Service
Maltsters Association of Great
Britain
McCormick (UK) Ltd

Minerva Scientific Ltd
Musgrave Retail Partners GB
MYCOTOXIN LABORATORY LTD
(UK)
National Association of British and
Irish Millers
National Association of Cider &
Perry Makers
National Association of Health
Stores
National Cattle Association (Dairy)
National Dried Fruit Trade
Association (NDFTA)
National Farmers' Union
National Farmers Union Scotland
National Federation of Meat and
Food Traders
National Federation Of Women's
Institutes
Neogen Europe Ltd
Nestle Confectionery (UK)
Nestle Confectionery (UK)
Neville Craddock Associates
NFU Cymru
Nickerson (UK) Ltd
Northern Foods plc
Northern Ireland Agricultural
Producers' Associati
Northern Ireland Food & Drink
Association
Northern Ireland Grain Trade
Association
Northern Ireland Meat Exporters
Association
Nottingham University
NPHS Microbiology Rhyl

Pet Food Manufacturers
Association
Premier Analytical Services
Quality Meat Scotland
Reading Scientific Services Ltd
ROTHER DISTRICT COUNCIL
(106)
Royal Association of British Dairy
Farmers
Royal Environmental Health
Institute of Scotland
Royal Pharmaceutical Society of
Great Britain

Royal Society for Public Health
Scottish Food and Drink Federation
Scottish Salmon Producers'
Organisation
Seasoning and Spice Association
Seed Crushers & Oil Producers
Association
SH Pratt & Co. (Bananas) Ltd
Shipton Mill Ltd
Shoreham Port
SITPRO
Society of Chief Officers of Trading
Standards in
Soil Association
Somerset Stores Limited
State General Laboratory (SGL)
Sustain: the alliance for better food
and farming
Taylors of Harrogate
Tesco Stores plc
Tesco Stores plc
The Cold Storage & Distribution
Federation
The Co-Operative Food
The Co-operative Group

The Food and Environment
Research Agency
The Food Commission
The Organic Herb Trading
Company
The Scotch Whisky Association
The Vegan Society
Toximet Limited
Trading Standards Institute
Ulster Farmers' Union
Unilever plc
Uniq PLC
United Distillers & Vintners Brand
Technical Centre
University of Bristol
University of Reading
University of Sussex
Veterinary Laboratory Agency
Vitrition UK Ltd
Waitrose Ltd
Welsh Local Government
Association
West Yorkshire Analytical Services
Which?
Wine and Spirit Trade Association
Worcestershire Scientific Services