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New EU Aflatoxin Levels and Sampling Plan

Report Categories:

Sanitary/Phytosanitary/Food Safety

Trade Policy Monitoring

Tree Nuts

Oilseeds and Products

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Report Highlights:

[Commission Regulation \(EU\) No 165/2010](#) published on February 27, 2010 amends Regulation (EC) No 1881/2006 setting maximum levels for certain contaminants in foodstuffs including aflatoxins. U.S. export items mostly affected by this change are almonds and pistachios, representing annual exports to the EU of around 1.2 billion USD over the past few years. The new regulation increases the maximum EU aflatoxin levels for almonds and pistachios. In the related [Commission Regulation \(EU\) No 178/2010](#) published on March 3, 2010 the EU reduced the sample size for tree nuts, peanuts and other oilseeds that are subjected to official controls for aflatoxins. As a result of the new EU regulations, EU aflatoxin levels are in line with existing Codex maximum aflatoxin levels and sampling plans. However, EU legislation has a more extensive product coverage and also includes separate maximum limits for aflatoxin B1.

General Information:

The text of the new regulation on aflatoxin levels is available from

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:050:0008:0012:EN:PDF>

[Commission Regulation \(EU\) No 165/2010](#) increases the maximum aflatoxin levels for almonds and pistachios as well as apricot kernels, hazelnuts and Brazil nuts. For other tree nuts, maximum EU aflatoxin levels remain unchanged. Other changes include the introduction of aflatoxin limits for oilseeds other than peanuts and an increased aflatoxin limit for rice for further processing. Maximum limits on peanuts, dried fruits, milk, spices, baby and infant foods remain unchanged.

The new regulation aligns the EU levels with the Codex Alimentarius levels for tree nuts adopted in July 2008. More specifically, at that time the Codex Alimentarius Commission adopted a level for total aflatoxin in almonds, hazelnuts and pistachios.

The EU aflatoxin legislation covers a series of elements that were not part of the Codex discussion. The EU legislation first of all has a more extensive product coverage, but even more importantly, it also includes separate limits for aflatoxin B1. This explains the delay in implementation of the international aflatoxin standards and the complex matrix of levels that resulted from the lengthy negotiations between the European Commission and the Member States in the comitology procedure.

Limits are established for ready-to-eat products as well as for further processing. The new legislation clarifies that in the case of goods for further processing the indication “product shall be subjected to sorting or other physical treatment to reduce aflatoxin contamination before human consumption or use as an ingredient in foodstuffs” shall be included on the label of each individual bag, box etc. AND on the original accompanying document.

It is also specified that oilseeds intended for crushing which are exempt from the EU aflatoxin limits need to be labeled as “product to be subject to crushing for the production of refined vegetable oil”. In this case, the final destination must be a crushing plant.

The following EU aflatoxin levels are affected by the new legislation.

	Current EU Aflatoxin Maximum Levels		EU Aflatoxin Maximum Levels Applicable as of March 9, 2010	
	B1	Total (B1+B2+)	B1	Total (B1+B2+)

			G1+G2)		G1+G2)	
Treenuts	Almonds, pistachios, Apricot kernels	Ready-to eat	2	4	8	10
		For further processing	5	10	12	15
	Hazelnuts, Brazil nuts	Ready-to eat	2	4	5	10
		For further processing	5	10	8	15
	Other tree nuts	Ready-to eat	2	4	2	4
		For further processing	5	10	5	10
Oilseeds (Not for crushing)	Peanuts	Ready-to eat	2	4	2	4
		For further processing	8	15	8	15
	Other Oilseeds	Ready-to eat	-	-	2	4
		For further processing	-	-	8	15

Cereals	Corn	Ready-to eat	2	4	2	4
		For further processing	5	10	5	10
	Rice	Ready-to eat	2	4	2	4
		For further processing	-	-	5	10
Other Cereals	Ready-to eat	2	4	2	4	

The new levels apply to all goods put on the EU market from March 9, 2010 onwards.

The related [Commission Regulation \(EU\) No 178/2010](#) amends Regulation (EC) No 401/2006 with respect to sampling and analysis for official controls on aflatoxins for peanuts, other oilseeds, tree nuts, apricot kernels, and vegetable oil. The text of the new regulation on the methods of sampling and analysis for the official control of the mycotoxin levels is available from <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:052:0032:0043:EN:PDF>

[Commission Regulation \(EU\) No 178/2010](#) brings the EU legislation in line with Codex sampling standards. In July 2008, Codex Alimentarius established new sampling plans for almonds, hazelnuts and pistachios (“ready-to-eat” and for further processing). Following the alignment with the Codex sampling plans, the EU sample size for “ready-to-eat” tree nuts will be brought down to 2*10 kg (in stead of 3*10 kg), with each of the samples testing below the maximum level. For tree nuts for further processing, the sample size is brought down to 1*20 kg (in stead of 1*30 kg currently). The EU sampling plan for treenuts is also extended to peanuts, other oilseeds and apricot kernels. The new regulation will enter into effect on March 13, 2010 i.e. four days later than the new aflatoxin levels.

Related Developments:

On January 1, 2010 [Commission Regulation \(EC\) No 1152/2010](#) entered into force. This regulation changed control levels for products under “special measures” including almonds shipped under the VASP program. Almonds shipped with a

VASP certificate became subject to random testing on import in Europe, whereas almonds that are not controlled under the VASP program continue to be subject to 100% border controls. *Note: In the case of U.S. almonds accompanied by a VASP certificate, goods put on the EU market after March 9 will be tested against the new levels, irrespective if these almonds have been tested under the old VASP equivalent to the old EU standards or if they have been tested under the to be updated VASP program corresponding to the EU new standards.*

["GUIDANCE DOCUMENT FOR COMPETENT AUTHORITIES FOR THE CONTROL OF COMPLIANCE WITH EU LEGISLATION ON AFLATOXINS"](#): an update is expected to be agreed on and published later this month.

[Commission Regulation \(EC\) No 669/2009](#) concerning the increased level of official controls on imports of certain feed and food of non-animal origin (also referred to as high-risk legislation). The product list is expected to be reviewed by April 2010.

No U.S. products are on the list, but aflatoxin levels on U.S. pistachios have been looked at in the context of this regulation.