

Commission Regulation (EU) No 278/2010 of 31 March 2010 amending Regulation (EC) No 1276/2008 on the monitoring by physical checks of exports of agricultural products receiving refunds or other amounts and Regulation (EC) No 612/2009 on laying down common detailed rules for the application of the system of export refunds on agricultural products

*Article 1*

Regulation (EC) No 1276/2008 is amended as follows:

1. In Article 2, the following point is added:
  - (m) “Control code” means information expressed by the letter “A” followed by four digits generated by electronic means, in printing, or in clearly legible handwriting.
2. Article 15 is replaced by the following:

*Article 15*

**T5 control copy**

1. For the purposes of Article 912c(3) and (4) of Regulation (EEC) No 2454/93, when applicable, customs authorities shall note on the control copy T5, or the equivalent document accompanying the products, the relevant control codes set out in Annex IIa to this Regulation, in accordance with the following rules:
  - a the customs office of export shall note in box D the relevant control code listed in Part 1 of Annex IIa, corresponding to whether:
    - (i) a physical check on export refunds provided in Article 4 of this Regulation has been carried out;
    - (ii) an analysis has been carried out in accordance with Article 51 of Commission Regulation (EC) No 1043/2005<sup>(1)</sup>;
    - (iii) it is a food aid export under Regulation (EC) No 2298/2001 exempted from physical check;
  - b the customs office of exit or the customs office to which the T5 control copy is sent shall, after having carried out the checks on the integrity of seals referred to in Article 7 of this Regulation, note in box J the relevant control code listed in Part 2 of Annex IIa, corresponding to whether:
    - (i) the seal is in conformity, or the absence of a seal is justified as referred to in Article 5(8) of Commission Regulation (EC) No 612/2009<sup>(2)</sup>;
    - (ii) the seal is missing or it was broken;
  - c the customs office of exit or the customs office to which the T5 control copy is sent shall note in box J the relevant control code listed in Part 3 of Annex IIa, corresponding to whether:
    - (i) the findings of the substitution check referred to in Article 8 of this Regulation are in conformity;

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- (ii) a sample has been taken under the substitution check referred to in Article 8 or the specific substitution check referred to in Article 9 of this Regulation, but the findings are not yet available due to ongoing verification by laboratory analysis;
- (iii) the findings of the specific substitution check referred to in Article 9 are in conformity;
- (iv) the findings of the substitution check referred to in Article 8 or the specific substitution check referred to in Article 9 are not in conformity.

2 The customs office of exit or the customs office to which the T5 control copy is sent shall mention in box J of the T5 control copy its Customs Office Reference number as referred to in point 8 of Annex 37c to Regulation (EEC) No 2454/93.

In the case referred to in paragraph 1(c)(ii), the customs office concerned shall, as soon as the verification is finalised, note the findings of this verification in box J of a copy of the T5 control copy sent previously, by using the relevant control code referred to in paragraph 1(c).

In the case referred to in paragraph 1(c)(iv), the customs office that made the findings shall:

- a attach to the copy of the T5 control copy which will be returned to the paying agency according to the procedure of Article 912c(4) of Regulation (EEC) No 2454/93, a copy of the control report as set out in paragraph 5 of this Article, indicating the checks carried out and the reasons why the relevant rules on export refunds might not have been complied with; and
- b request that the paying agency notifies them of the action taken as a result of the findings.

3 If selection procedures for checks on the integrity of seals referred to in Article 7, or for substitution checks referred to in Article 8, or specific substitution checks referred to in Article 9, and therefore the application of risk management, are made difficult due to incomplete information indicated in the T5 control copy, the customs office of exit or the customs office to which the T5 control copy is sent shall note in box J, as supplementary information, one of the control codes listed in Part 4 of Annex IIa.

4 The customs office of exit or the customs office to which the T5 control copy is sent shall take steps to make available to the Commission at any time details of the number of:

- a T5 control copies and equivalent documents taken into account for the purposes of the checks on the integrity of seals referred to in Article 7, for the purposes of substitution checks referred to in Article 8, and specific substitution checks referred to in Article 9;
- b checks carried out on integrity of seals referred to in Article 7;
- c substitution checks carried out referred to in Article 8;
- d specific substitution checks carried out referred to in Article 9.

A duplicate or a copy of the document shall remain at the customs office of exit or the customs office to which the T5 control copy or equivalent document is sent, as the case may be, and it shall be accessible for consultation.

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5 Every substitution check and specific substitution check referred to in Articles 8 and 9 shall be the subject of a report drawn up by the customs official who carries it out.

The report shall permit monitoring of the checks carried out and shall bear the date and the name of the customs official. Without prejudice to Article 9 of Regulation (EC) No 885/2006 it shall be accessible for consultation for three years from the year of export at the customs office which carried out the check, or at one place in the Member State.

3. Annexes III to VII are deleted.

4. A new Annex IIa is inserted the text of which is set out in Annex I to this Regulation.

#### *Article 2*

Regulation (EC) No 612/2009 is amended as follows:

1. In Article 5(8), the second subparagraph is replaced by the following:

Before affixing seals, the customs office of export shall visually check the conformity of the products with the export declarations. The number of visual checks shall not be less than 10 % of the number of export declarations, other than those in respect of which the products covered by them have been physically checked or selected for a physical check under Article 3 of Regulation (EC) No 1276/2008. The customs office shall note this check in box D of the T5 control copy or equivalent document by using the control code as defined in Article 2(m) of Regulation (EC) No 1276/2008 and as set out in Annex II to this Regulation.

2. Annex II is replaced by the text set out in Annex II to this Regulation.

#### *Article 3*

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 as from 1 July 2010.

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

Done at Brussels, 31 March 2010.

*For the Commission*

*The President*

José Manuel BARROSO

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- (1) OJ L 172, 5.7.2005, p. 24.
- (2) OJ L 186, 17.7.2009, p. 1.

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