

Commission Regulation (EU) No 742/2010 of 17 August 2010 amending Regulation (EU) No 1272/2009 laying down common detailed rules for the implementation of Council Regulation (EC) No 1234/2007 as regards buying-in and selling of agricultural products under public intervention

COMMISSION REGULATION (EU) No 742/2010

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amending Regulation (EU) No 1272/2009 laying down common detailed rules for the implementation of Council Regulation (EC) No 1234/2007 as regards buying-in and selling of agricultural products under public intervention

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation)⁽¹⁾, and in particular Article 43(a) and (d), in conjunction with Article 4 thereof,

Whereas:

- (1) The eligibility criteria to be met by cereals for public intervention and the methods to be used for carrying out tests to establish such eligibility pursuant to Article 7 of Commission Regulation (EU) No 1272/2009⁽²⁾ are set out in Parts I to VIII and Part XII of Annex I to the said Regulation. Some of those methods have been amended by the European Committee for Standardisation (CEN). In order to take account of the changes in some of the methods in question and promote the European standards, those methods should be adapted. In order to ensure identical and consistent application of the methods in a given intervention period, it should be laid down that the said methods are those in force on the first day of the marketing year.
- (2) The reference method for determining matter other than basic cereals of unimpaired quality, currently mentioned in Part IV of Annex I to Regulation (EU) No 1272/2009, is described in Part V of the said Annex. Point 1 of Part V concerning common wheat, durum wheat and barley has been updated by European standard EN 15587:2008. The standard in question should be included in that point.
- (3) Part III of Annex I to Regulation (EU) No 1272/2009 defines matter other than basic cereals of unimpaired quality and the factors to be taken into consideration for each type of cereal for defining impurities. For the sake of precision and concordance with European standard EN 15587:2008, certain definitions should be adapted and some subheadings should be moved from one category to another. As a result of those changes to subheadings, Part II of Annex I on minimum quality requirements should also be amended.

- (4) International method ISO 712:1998, currently mentioned in Part IV of Annex I to Regulation (EU) No 1272/2009 as one of the methods for determining moisture content, has been updated in respect of cereals other than maize, by European and international standard EN ISO 712:2009. The standard in question should be included. For maize the update provided for in European and international standard EN ISO 6540:2010 should be taken into account. Part VI of Annex I should also be deleted, and paragraph 3 of Part XII of Annex I should be adapted accordingly.
- (5) The reference method for determining the protein content of common wheat grains, currently mentioned in Part IV of Annex I to Regulation (EU) No 1272/2009, is the method recognised by the International Association for Cereal Chemistry (ICC), as laid down in standard No 105/2. Following the work of the CEN, that method should be replaced by European and international standard EN ISO 20483:2006 and should be extended to include durum wheat grains. As an alternative method, standard CEN ISO/TS 16634-2:2009 should also be specified.
- (6) International method ISO 5529:1992 for determining the Zeleny index of common wheat, currently mentioned in Part IV of Annex I to Regulation (EU) No 1272/2009, has been updated by European and international standard EN ISO 5529:2009. The standard in question should be included.
- (7) International method ISO 3093:2004 for determining the Hagberg falling number, currently mentioned in Part IV of Annex I to Regulation (EU) No 1272/2009, has been updated by European and international standard EN ISO 3093:2009. The standard in question should be included.
- (8) The reference method for determining the rate of loss of vitreous aspect of durum wheat, currently mentioned in Part IV of Annex I to Regulation (EU) No 1272/2009, is described in Part VIII of the said Annex. Following the work of the CEN, that method should be replaced by European standard EN 15585:2008. The abovementioned standard should be included and Part VIII of Annex I deleted.
- (9) International reference method ISO 7971/2:1995 for determining the specific weight, currently mentioned in Part IV of Annex I to Regulation (EU) No 1272/2009, has been updated by European and international standard EN ISO 7971/3:2009. The standard in question should be included.
- (10) This Regulation should apply from the date from which the provisions of Regulation (EU) No 1272/2009 become applicable to cereals.
- (11) However, in order to enable the Member States to implement the amendments and updates introduced by this Regulation, in particular as regards impurities and references to standard EN 15587, a reasonable deadline should be set for the implementation of certain provisions. The amendments in question should therefore apply only from the marketing year 2011/12.
- (12) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for the Common Organisation of Agricultural Markets,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EU) No 1272/2009 is amended as follows:

1. Article 7 is amended as follows:
 - (a) the first indent of paragraph 2 is replaced by the following:
— for cereals: in Annex I, Parts III, IV, V, VII and XII,;
 - (b) the following paragraph 3 is added:
 3. To determine the quality of cereals offered for, or placed in, intervention, the methods to be used shall be those described in Annex I, established by the latest versions of the relevant European and/or international standards, as the case may be, in force on the first day of each marketing year..
2. Annex I is 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 1 July 2010.

However, Article 1(2), as regards point B of Part II, Part III, point (a) of Part IV and Part V of Annex I to Regulation (EU) No 1272/2009, shall apply from 1 July 2011.

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

Done at Brussels, 17 August 2010.

For the Commission

The President

José Manuel BARROSO

Status: This is the original version (as it was originally adopted).

ANNEX

Annex I to Regulation (EU) No 1272/2009 is amended as follows:

1. Parts II to V are replaced by the following:

PART II

Minimum quality requirements referred to in Part I

	Durum wheat	Common wheat	Barley	Maize	Sorghum
A. Maximum moisture content	14,5 %	14,5 %	14,5 %	13,5 %	13,5 %
B. Maximum percentage of matter which is not basic cereal of unimpaired quality	12 %	12 %	12 %	12 %	12 %
1. Broken grains	6 %	5 %	5 %	5 %	5 %
2. Grain impurities	8,5 %	7 %	12 %	5 %	5 %
2.1. Impurities other than mottled grains	5 %	7 %	12 %	5 %	5 %
(a) shrivelled grains	X	X	X	n.a.	n.a.
(b) other cereals	3 %	X	5 %	X	X
(c) grains damaged by pests	X	X	X	X	X
(d) grains in which the	X	X	n.a.	n.a.	n.a.

a of which maximum 3 % for impurities other than grains affected by fusariosis.**b** As a percentage of dry matter.

"X" indicates analysis required without specific limit but content to be taken into account for maximum limits set in points 2 and 4 of the table.

"n.a.": not applicable, not requiring analysis.

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germ is discoloured					
(e) grains overheated during drying	0,5 %	0,5 %	3 %	0,5 %	0,5 %
2.2. Mottled grains	3,5 %	n.a.	n.a.	n.a.	n.a.
3. Sprouted grains	4 %	4 %	6 %	6 %	6 %
4. Miscellaneous impurities	4,5 % ^a	3 %	3 %	3 %	3 %
of which:					
(a) extraneous seeds:					
— noxious	0,1 %	0,1 %	0,1 %	0,1 %	0,1 %
— other	X	X	X	X	X
(b) damaged grains					
— grains damaged by spontaneous heating or too extreme heating during drying	0,05 %	0,05 %	X	X	X
— grains affected with fusariosis	1,5 %	X	X	X	X
— other	X	X	X	X	X
(c) extraneous matter	X	X	X	X	X

a of which maximum 3 % for impurities other than grains affected by fusariosis.

b As a percentage of dry matter.

“X” indicates analysis required without specific limit but content to be taken into account for maximum limits set in points 2 and 4 of the table.

“n.a.”: not applicable, not requiring analysis.

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(d) husks (cob fragments in the case of maize)	X	X	X	X	X
(e) ergot	0,05 %	0,05 %	n.a.	n.a.	n.a.
(f) decayed grains	X	X	n.a.	n.a.	n.a.
(g) impurities of animal origin	X	X	X	X	X
C. Maximum percentage of wholly or partially mitadiné grains	27 %	n.a.	n.a.	n.a.	n.a.
D. Maximum tannin content^b	n.a.	n.a.	n.a.	n.a.	1 %
E. Minimum specific weight (kg/hl)	78	73	62	n.a.	n.a.
F. Minimum protein content^b	11,5 %	10,5 %	n.a.	n.a.	n.a.
G. Hagberg falling number (seconds)	220	220	n.a.	n.a.	n.a.
H. Minimum Zeleny index (ml)	n.a.	22	n.a.	n.a.	n.a.

a of which maximum 3 % for impurities other than grains affected by fusariosis.

b As a percentage of dry matter.

“X” indicates analysis required without specific limit but content to be taken into account for maximum limits set in points 2 and 4 of the table.

“n.a.”: not applicable, not requiring analysis.

Matter other than basic cereals of unimpaired quality is defined in Part III of this Annex.

Grains of basic cereals and other cereals which are damaged or decayed are classified as “miscellaneous impurities” even if they have defects which belong to other categories.

PART III 1. DEFINITION OF MATTER OTHER THAN BASIC CEREALS OF UNIMPAIRED QUALITY
1.1. Broken grains

For durum wheat, common wheat and barley, the definition of “broken grains” is that contained in standard EN 15587.

For maize, “broken grains” means pieces of grain or grains which pass through a sieve with a circular mesh 4,5 mm in diameter.

For sorghum, “broken grains” means pieces of grain or grains which pass through a sieve with a circular mesh 1,8 mm in diameter.

1.2. Grain impurities
(a) Shrivelled grains

For durum wheat, common wheat and barley, the definition of “shrivelled grains” is that contained in standard EN 15587. However, for barley from Estonia, Latvia, Finland and Sweden, “shrivelled grains” means grains with a specific weight of at least 64 kilograms per hectolitre offered for, or placed in, intervention in those Member States, grains which, after elimination of all other matter referred to in this Annex, pass through sieves with apertures of 2,0 mm.

“Shrivelled grains” does not apply to maize or sorghum.

(b) Other cereals

For durum wheat, common wheat and barley, the definition of “other cereals” is that contained in standard EN 15587.

For maize and sorghum, “other cereals” means all grains of cultivated cereals which do not belong to the species of grain sampled.

(c) Grains damaged by pests

For durum wheat, common wheat and barley, the definition of “grains damaged by pests” is that contained in standard EN 15587.

For maize and sorghum, “grains damaged by pests” means all grains showing a visible deterioration attributable to attack by insects, rodents, mites or other grain pests.

(d) Grains in which the germ is discoloured

For durum wheat and common wheat, the definition is that contained in standard EN 15587.

“Grains in which the germ is discoloured” does apply to barley, maize or sorghum.

(e) Grains overheated during drying

For durum wheat, common wheat and barley, the definition of “grains overheated during drying” is that contained in standard EN 15587.

For maize and sorghum, “grains overheated during drying” are those which show external signs of scorching but which are not damaged grains.

(f) Mottled grains

For durum wheat, the definition of “mottled grains” is that contained in standard EN 15587.

“Mottled grains” does not apply to common wheat, barley, maize or sorghum.

1.3. Sprouted grains

For durum wheat, common wheat and barley, the definition of “sprouted grains” is that contained in standard EN 15587.

For maize and sorghum, “sprouted grains” are those in which the radicle or plumule is clearly visible to the naked eye. However, account must be taken of the general appearance of the sample when its content of sprouted grains is assessed. Sprouted grains are only those where the germ has undergone clearly visible changes which make it easy to distinguish the sprouted grain from the normal grain.

1.4. Miscellaneous impurities (a) Extraneous seeds

For durum wheat, common wheat and barley, the definition of “extraneous seeds” is that contained in standard EN 15587.

For maize and sorghum, “extraneous seeds” are seeds of plants, whether or not cultivated, other than cereals. They include seeds not worth recovering, seeds which can be used for livestock but which are not cereals, and noxious seeds.

“Noxious seeds” means seeds which are toxic to humans and animals, seeds hampering or complicating the cleaning and milling of cereals and seeds affecting the quality of products processed from cereals.

(b) Damaged grains

For durum wheat, common wheat and barley, the definition of “damaged grains” is that contained in standard EN 15587.

For maize and sorghum, “damaged grains” means grains which have become unusable for livestock feed on account of putrefaction, mildew (including fusariosis), or bacterial or other causes.

“Damaged grains” also includes grains damaged by spontaneous heat generation or too extreme heating during drying; such grains are fully-grown grains in which the tegument is coloured greyish brown to black, while the cross-section of the kernel is coloured yellowish-grey to brownish-black.

In standard EN 15587, for durum wheat, common wheat and barley, the definition of “grains affected by fusariosis” is included in that of “damaged grains”.

(c) Extraneous matter

For durum wheat, common wheat and barley, the definition of “extraneous matter” is that contained in standard EN 15587.

For maize and sorghum, all matter in a sample which passes through a sieve with apertures of 1 mm, with the exception of live and dead insects, is considered to be extraneous matter.

(d) Husks (cob fragments in the case of maize). (e) Ergots (f) Decayed grains

For durum wheat and common wheat, the definition of “decayed grains” is that contained in standard EN 15587.

“Decayed grains” does not apply to barley, maize or sorghum.

(g) Impurities of animal origin. 1.5. Live pests 1.6. Mitadiné grains

Mitadiné grains of durum wheat are grains whose kernels cannot be regarded as entirely vitreous. They are also defined in standard EN 15585.

2. SPECIFIC FACTORS TO TAKE INTO CONSIDERATION FOR EACH TYPE OF CEREAL FOR THE DEFINITION OF IMPURITIES

2.1. Durum wheat

“Grain impurities” means shrivelled grains, grains of other cereals, grains damaged by pests, grains in which the germ is discoloured, mottled grains and grains overheated during drying.

“Miscellaneous impurities” means extraneous seeds, damaged grains (including grains affected by fusariosis), extraneous matter, husks, ergot, decayed grains and impurities of animal origin.

2.2. Common wheat

“Grain impurities” means shrivelled grains, grains of other cereals, grains damaged by pests, grains in which the germ is discoloured (only where the content exceeds 8 %) and grains overheated during drying.

“Miscellaneous impurities” means extraneous seeds, damaged grains (including grains affected by fusariosis), extraneous matter, husks, ergot, decayed grains and impurities of animal origin.

2.3. Barley

“Grain impurities” means shrivelled grains, grains of other cereals, grains damaged by pests and grains overheated during drying.

“Miscellaneous impurities” means extraneous seeds, damaged grains (including grains affected by fusariosis), extraneous matter, husks and impurities of animal origin.

2.4. Maize

“Grain impurities” means grains of other cereals, grains damaged by pests and grains overheated during drying.

“Miscellaneous impurities” means extraneous seeds, damaged grains (including grains affected by fusariosis), extraneous matter, cob fragments and impurities of animal origin.

2.5. Sorghum

“Grain impurities” means grains of other cereals, grains damaged by pests and grains overheated during drying.

“Miscellaneous impurities” means extraneous seeds, damaged grains (including grains affected by fusariosis), extraneous matter, husks and impurities of animal origin.

PART IV Methods used for determining the quality of cereals offered for, or placed in, intervention

Pursuant to Article 7, the following methods are to be used to determine the quality of cereals offered for, or placed in, intervention:

- (a) the reference method for determining matter other than basic cereals of unimpaired quality:
 - for common wheat, durum wheat and barley: standard EN 15587,
 - for maize and sorghum: the method set out in Part V of this Annex;
- (b) the reference method for determining the moisture content:
 - for maize: standard EN ISO 6540,
 - for cereals other than maize: standard EN ISO 712, or
 - an infrared technology-based method.

In the event of a dispute, only the results of standard EN ISO 6540 for maize and EN ISO 712 for cereals other than maize are to be considered valid;

- (c) the reference method for determining the tannin content of sorghum: standard ISO 9648;
- (d) the reference method for determining the non-stickiness and machinability of the dough obtained from common wheat: that set out in Part VII of this Annex;
- (e) the reference method for determining the protein content in durum wheat and ground common wheat: that set out in:
 - standard EN ISO 20483, or
 - standard CEN ISO/TS 16634-2.

In the event of a dispute, only the results obtained from applying standard EN ISO 20483 are to be considered valid;

- (f) the reference method for determining the Zeleny index of ground common wheat: that set out in standard EN ISO 5529;
- (g) the reference method for determining the Hagberg falling number (amylase activity test): that set out in standard EN ISO 3093;
- (h) the reference method for determining the rate of loss of the vitreous aspect of durum wheat: that set out in standard EN 15585;
- (i) the reference method for determining the specific weight: that set out in standard EN ISO 7971/3;
- (j) the sampling and analysis methods for establishing the rate of mycotoxins: those referred to in the Annex to Regulation (EC) No 1881/2006 and set out in Annexes I and II to Commission Regulation (EC)⁽³⁾ No 401/2006

PART V Reference method for determining matter other than basic cereals of unimpaired quality in the case of maize and sorghum. Shake an average sample of 500 g in the case of maize and 250 g in the case of sorghum for half a minute in a sieve which has slotted perforations of 1,0 mm. Check for live pests and dead insects in the fraction passed through the sieve.

Using tweezers or a spatula, extract from the matter retained by the sieve with slotted perforations of 1,0 mm stones, sand, fragments of cob or straw and other extraneous matter.

Add the extraneous matter thus extracted to the matter which has passed through the sieve with slotted perforations of 1,0 mm and weigh them together.

Using a separator, separate the fraction retained by the sieve with slotted perforations of 1,0 mm to obtain a subsample of 100 to 200 g in the case of maize or 25 to 50 g in the case of sorghum. Weigh this subsample. Spread it out in a thin layer on a table. Using tweezers or a spatula, extract the other cereals, grains damaged by pests, grains overheated during drying, sprouted grains, extraneous seeds, damaged grains, husks and impurities of animal origin. In the case of sorghum, grains still attached to the husk must be separated from the husk, the latter constituting miscellaneous impurities. Then assess the state of the grain.

Sieve the subsample from which all impurities have been removed for 30 seconds in a sieve with circular mesh 4,5 mm in diameter in the case of maize and 1,8 mm in diameter in the case of sorghum. The matter which passes through this sieve is to be considered as broken grains.

2. Groups of matter other than basic cereals of unimpaired quality, determined according to the method referred to in point 1 must be weighed very carefully to the nearest 0,01 g and distributed according to percentage over the average sample. The particulars should be entered in the analysis report to the nearest 0,1 %. Indicate the presence of live pests.

As a general rule, two analyses must be made for each sample. They must not differ by more than 10 % in respect of the total of the abovementioned matter.

3. The apparatus to be used for the operations referred to in points 1 and 2 is as follows:

- (a) sample separator, for example a conical or riffle apparatus;
- (b) precision balance capable of weighing to an accuracy of 0,01 g (i.e. with a display precision of 0,001 g);
- (c) sieves with slotted perforations of 1,0 mm and sieves with a circular mesh 1,8 mm and 4,5 mm in diameter. The sieves may be fitted to a vibrating table. Sieves must conform to standard ISO 5223..

2. Parts VI and VIII are deleted.

3. In Part XII, point 3 is replaced by the following:

Status: This is the original version (as it was originally adopted).

3. The reference methods to be used for determining the quality of cereals offered for, or placed in, intervention are those set out in Parts III, IV, V and VII of this Annex.

Status: This is the original version (as it was originally adopted).

- (1) OJ L 299, 16.11.2007, p. 1.
- (2) OJ L 349, 29.12.2009, p. 1.
- (3) OJ L 70, 9.3.2006, p. 12.