



**COMMISSION IMPLEMENTING REGULATION (EU) 2024/885
of 20 March 2024**

amending Implementing Regulation (EU) 2023/2782 laying down the methods of sampling and analysis for the control of the levels of mycotoxins in food as regards the method of sampling for dried herbs, herbal infusions (dried product), teas (dried product) and powdered spices

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products, amending Regulations (EC) No 999/2001, (EC) No 396/2005, (EC) No 1069/2009, (EC) No 1107/2009, (EU) No 1151/2012, (EU) No 652/2014, (EU) 2016/429 and (EU) 2016/2031 of the European Parliament and of the Council, Council Regulations (EC) No 1/2005 and (EC) No 1099/2009 and Council Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC and 2008/120/EC, and repealing Regulations (EC) No 854/2004 and (EC) No 882/2004 of the European Parliament and of the Council, Council Directives 89/608/EEC, 89/662/EEC, 90/425/EEC, 91/496/EEC, 96/23/EC, 96/93/EC and 97/78/EC and Council Decision 92/438/EEC (Official Controls Regulation) ⁽¹⁾, and in particular Article 34(6) thereof,

Whereas:

- (1) Commission Implementing Regulation (EU) 2023/2782 ⁽²⁾ establishes methods of sampling and analysis to be used for the control of the levels of mycotoxins in foodstuffs.
- (2) The results from recent research performed by a working group coordinated by the German Federal Institute for Risk Assessment (BfR) provide evidence that the sampling method for the control of plant toxins (also applicable for the control of mycotoxins) in dried herbs, herbal infusions (dried product), teas (dried product) and powdered spices as laid down in Implementing Regulation (EU) 2023/2782 does not guarantee obtaining a sample that is representative for the sampled lot.
- (3) It is therefore necessary to amend the sampling method by increasing the required weight of the incremental and aggregate samples and by precisising the rules applicable for the sampling of food supplements containing dried herbs in bulk before their packaging in retail/individual packages for the final consumer to ensure that the obtained sample is representative for the sampled lot.
- (4) Implementing Regulation (EU) 2023/2782 should therefore be amended accordingly.
- (5) Given that Implementing Regulation (EU) 2023/2782 applies from 1 April 2024, this Regulation should enter into force on the third day after its publication, to avoid that national competent authorities have to apply the current rules of that Regulation for a short period of time.
- (6) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

⁽¹⁾ OJ L 95, 7.4.2017, p. 1, ELI: <http://data.europa.eu/eli/reg/2017/625/oj>

⁽²⁾ Commission Implementing Regulation (EU) 2023/2782 of 14 December 2023 laying down the methods of sampling and analysis for the control of the levels of mycotoxins in food and repealing Regulation (EC) No 401/2006 (OJ L, 2023/2782, 15.12.2023, ELI: http://data.europa.eu/eli/reg_impl/2023/2782/oj).

HAS ADOPTED THIS REGULATION:

Article 1

Annex I to Implementing Regulation (EU) 2023/2782 is amended in accordance with the Annex to this Regulation.

Article 2

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

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

Done at Brussels, 20 March 2024.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX

In Part II of Annex I to Regulation (EU) 2023/2782, part M is replaced by the following:

M. METHOD OF SAMPLING FOR DRIED HERBS, HERBAL INFUSIONS (DRIED PRODUCT), TEAS (DRIED PRODUCT) AND POWDERED SPICES

M.1. Weight of the incremental sample

The weight of the incremental sample shall be about 80 g, unless otherwise defined in this part M.

In the case of lots in retail/individual packages, the weight of the incremental sample depends on the weight of the retail/individual package.

In the case of retail/individual package of > 80 g, this will result in aggregate samples weighing more than the required weight indicated in tables 1 and 2. If the weight of a single retail/individual package is >> 80 g, then 80 g shall be taken from each individual retail/individual package 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.), an alternative method of sampling can be applied. For example, in case where a valuable product is marketed in retail/individual packages of 500 g 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 and 2, on the condition that the weight of the aggregate sample corresponds to the required weight of the aggregate sample mentioned in Tables 1 and 2.

Where the retail/individual packages are less than 80 g and if the difference is small (i.e. not less than half of 80 g), one retail/individual package shall be considered as one incremental sample, resulting in an aggregate sample of less than the required weight indicated in tables 1 and 2. If the weight of the retail/individual packages are much less than 80 g, one incremental sample shall consist of two or more retail/individual packages, whereby the 80 g are approximated as closely as possible.

M.2. Division of lots into sublots for the sampling of dried herbs, herbal infusions (dried product), teas (dried product) and powdered spices

Table 1

Subdivision of lots into sublots depending on lot weight

Commodity	Lot weight (tonnes)	Weight of sublots	Number of incremental samples	Aggregate sample weight (kg)
dried herbs, herbal infusions (dried product) teas (dried product), powdered spices	≥ 15	25 tonnes	50	4
	< 15	—	3 – 50 (*)	0,2 – 4,0

(*) Depending on the lot weight – see Table 2.

M.3. Method of sampling for dried herbs, herbal infusions (dried product), teas (dried product) and powdered spices (lots ≥ 15 tonnes)

On condition that the subplot 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 subplot may exceed the mentioned weight by a maximum of 20 %.

Each subplot shall be sampled separately.

The number of incremental samples shall be 50. The weight of the aggregate sample shall be 4,0 kg.

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 or other reasons) an alternative method of sampling may be applied provided that it is as representative as possible and is fully described and documented.

M.4. **Method of sampling for dried herbs, herbal infusions (dried product) and teas (dried product) and powdered spices (lots < 15 tonnes)**

For lots of dried herbs, herbal infusions (dried product) and teas (dried product) and powdered spices of less than 15 tonnes the sampling plan shall consist in 3 to 50 incremental samples, depending on the lot weight, resulting in an aggregate sample of 0,2 to 4,0 kg.

The figures in the following Table 2 may be used to determine the number of incremental samples to be taken.

Table 2

Minimum number of incremental samples to be taken depending on the weight of the lot of dried herbs, herbal infusions (dried product), teas (dried product) and powdered spices

Lot weight (tonnes)	Minimum number of incremental samples	Minimum aggregate sample weight (kg)
≤ 0,1	3	0,2
> 0,1 – ≤ 0,5	10	0,8
> 0,5 – ≤ 5,0	25	2,0
> 5,0 – ≤ 10,0	35	2,8
> 10,0 – ≤ 15,0	50	4,0

M.5. **Sampling at retail stage**

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

Where this is not possible, an alternative method of sampling at retail stage may be used provided that it ensures that the aggregate sample is sufficiently representative of the sampled lot and is fully described and documented. In any case, the aggregate sample shall weigh at least 0,2 kg.

M.6. **Sampling of food supplements containing dried herbs in bulk before their packaging in retail/individual packages for the final consumer**

For the sampling of food supplements containing dried herbs in bulk before their packaging in retail/individual packages, the sampling provisions provided for in this part M apply and shall be applied based on the weight of the dried herb content of the food supplements in bulk.

M.7. **Acceptance of a lot or subplot**

Acceptance: where the laboratory sample conforms to the maximum level, taking into account the correction for recovery and measurement uncertainty.

Rejection: where the laboratory sample exceeds the maximum level beyond reasonable doubt taking into account the correction for recovery and measurement uncertainty. This is the case when the analytical result (corrected for recovery if applicable) minus the expanded measurement uncertainty arising from the analysis is above the maximum level.'