

COMMISSION REGULATION (EC) No 563/2002

of 2 April 2002

amending Regulation (EC) No 466/2001 setting maximum levels for certain contaminants in foodstuffs

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 315/93 of 8 February 1993 laying down Community procedures for contaminants in food ⁽¹⁾, and in particular Article 2(3) thereof,

Whereas:

- (1) Regulation (EEC) No 315/93 provides that maximum levels must be set for certain contaminants in foodstuffs in order to protect public health.
- (2) Commission Regulation (EC) No 466/2001 ⁽²⁾, as last amended by Regulation (EC) No 472/2002 ⁽³⁾, applies from 5 April 2002, replacing Commission Regulation (EC) No 194/97 of 31 January 1997 setting maximum levels for certain contaminants in foodstuffs ⁽⁴⁾, as amended in particular by Regulation (EC) No 864/1999 ⁽⁵⁾, setting maximum levels for nitrate in lettuce and spinach.
- (3) Member States are required to communicate the results of their monitoring and report on the measures taken and the progress with regard to the application of codes of good agricultural practice to reduce nitrate levels. Using this information the Commission shall proceed every three years, and before 1 January 2002 for the first time, to a review of the maximum levels for nitrates in lettuce and spinach, with the overall objective of reducing the said levels.
- (4) Annual monitoring data from Member States show reductions in levels of nitrates in lettuce. Lower maximum levels for certain categories of lettuce are reasonably achievable based upon good production practice. In some regions nitrate levels are reported to be frequently higher than those set in the Annex of Regulation (EC) No 466/2001, although the general trend shows that the levels of nitrate in lettuce are decreasing. The levels of nitrate in spinach show no clear trend for reduction. Some Member States need to maintain the established transitional period to authorise the placing

on the home market of lettuce and/or spinach grown and intended for consumption in their territory. For lettuce this transitional period should be time-limited, but for spinach an end date is not yet foreseen.

- (5) Regulation (EC) No 466/2001 should be amended accordingly.
- (6) 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 466/2001 is amended as follows:

1. Article 3(1) is replaced by the following:

'1. Member States may, where justified, authorise for a transitional period the placing on the market of fresh lettuces and fresh spinach, grown and intended for consumption in their territory, with nitrate levels higher than those set as maximum levels in points 1.1, 1.3 and 1.4 of the Annex provided that codes of good agricultural practice are applied to achieve gradual progress towards the levels laid down in this Regulation.

The transitional period:

- (a) with regard to lettuces, shall cease on 1 January 2005;
- (b) with regard to spinach, shall be reviewed not later than 1 January 2005.

Member States shall inform the other Member States and the Commission each year of steps taken to implement the first sub-paragraph.'

2. Annex I is replaced by the text in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the 20th day following that of its publication in the *Official Journal of the European Communities*.

⁽¹⁾ OJ L 37, 13.2.1993, p. 1.

⁽²⁾ OJ L 77, 16.3.2001, p. 1.

⁽³⁾ OJ L 75, 16.3.2002, p. 18.

⁽⁴⁾ OJ L 31, 1.2.1997, p. 48.

⁽⁵⁾ OJ L 108, 27.4.1999, p. 16.

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

Done at Brussels, 2 April 2002.

For the Commission
David BYRNE
Member of the Commission

ANNEX

Section 1 of Annex I to Regulation (EC) No 466/2001 concerning nitrates shall be replaced by the following:

Product	Maximum level (mg NO ₃ /kg)		Sampling method	Reference analysis method
1.1. Fresh spinach ⁽¹⁾ (<i>Spinacia oleracea</i>)	Harvested 1 November to 31 March	3 000	Commission Directive 79/700/EEC ⁽²⁾	
	Harvested 1 April to 31 October	2 500		
1.2. Preserved, deep-frozen or frozen spinach		2 000	Directive 79/700/EEC	
1.3. Fresh Lettuce (<i>Lactuca sativa</i> L.) (protected and open-grown lettuce) excluding lettuce listed in point 1.4.	Harvested 1 October to 31 March:		Directive 79/700/EEC. However, the minimum number of units per laboratory sample is 10	
	— lettuce grown under cover	4 500 ⁽³⁾		
	— grown in the open air	4 000 ⁽³⁾		
	Harvested 1 April to 30 September:			
— lettuce grown under cover	3 500 ⁽³⁾			
— lettuce grown in the open air	2 500 ⁽³⁾			
1.4. "Iceberg" type lettuces ⁽⁴⁾	Lettuce grown under cover	2 500 ⁽³⁾	Directive 79/700/EEC. However, the minimum number of units per laboratory sample is 10	
	Lettuce grown in the open air	2 000 ⁽³⁾		

⁽¹⁾ The maximum levels for fresh spinach do not apply for fresh spinach to be subjected to processing and which is directly transported in bulk from field to processing plant.

⁽²⁾ OJ L 207, 15.8.1979, p. 26.

⁽³⁾ In the absence of appropriate labelling, indicating the production method, the level established for open grown lettuce applies.

⁽⁴⁾ Described in Commission Regulation (EC) No 1543/2001 of 27 July 2001, laying down the marketing standard for lettuces and curled-leaved and broad-leaved (Batavian) endives (OJ L 203, 28.7.2001, p. 9).'