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COUNCIL REGULATION (EURATOM) No 3954/87

of 22 December 1987

laying down maximum permitted levels of radioactive contamination of foodstuffs and of feeding-stuffs following a nuclear accident or any other case of radiological emergency

(OJ L 371, 30.12.1987, p. 11)

Corrected by:

►**C1** Corrigendum, OJ L 18, 22.1.1988, p. 74 (3954/87)

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COUNCIL REGULATION (EURATOM) No 3954/87

of 22 December 1987

laying down maximum permitted levels of radioactive contamination of foodstuffs and of feedingstuffs following a nuclear accident or any other case of radiological emergency

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 31 thereof,

Having regard to the proposal from the Commission, drawn up after obtaining the opinion of a group of experts appointed by the Scientific and Technical Commitee [1],

Having regard to the opinion of the European Parliament [2],

Having regard to the opinion of the Economic and Social Committee [3],

Whereas Article 2 (b) of the Treaty requires that the Council shall establish uniform safety standards to protect the health of workers and of the general public and ensure that they are applied, as further set out in Title Two, Chapter III of the Treaty;

Whereas, on 2 February 1959, the Council adopted Directives [4], laying down basic safety standards the text of which was replaced by that of Directive 80/836/Euratom [5], as amended by Directive 84/467/Euratom [6], and whereas Article 45 of that Directive requires Member States to stipulate intervention levels in the event of accidents;

Whereas, following the accident at the Chernobyl nuclear power-station on 26 April 1986, considerable quantities of radioactive materials were released into the atmosphere, contaminating foodstuffs and feedingstuffs in several European countries to levels significant from the health point of view;

Whereas, the Community adopted measures [7] to ensure that certain agricultural products are only introduced into the Community according to the common arrangements which safeguard the health of the population while maintaining the unified nature of the market and avoiding deflections of trade;

Whereas the need arises to set up a system allowing the Community, following a nuclear accident or any other case of radiological emergency which is likely to lead or has led to a significant radioactive contamination of foodstuffs and feedingstuffs, to fix maximum permitted levels of radioactive contamination in order to protect the population;

Whereas the Commission will be informed of a nuclear accident or of unusually high levels of radioactivity according to the Council Decision of 14 December 1987 on Community arrangements for the early exchange of information in the event of radiological emergency [8], or under the Convention on Early Notification of a Nuclear Accident of 26 September 1986;

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(1) OJ No C 174, 2. 7. 1987, p. 6.
(2) Opinion delivered on 16 December 1987 (not yet published in the Official Journal).
(3) OJ No C 180, 8. 7. 1987, p. 20.
(4) OJ No 11, 20. 2. 1959, p. 221/59.
(5) OJ No L 246, 17. 9. 1980, p. 1.
(6) OJ No L 265, 5. 10. 1984, p. 4.
(7) Council Regulations (EEC) No 1707/86, OJ No L 146, 31. 5. 1986, p. 88; (EEC) No 3020/86, OJ No L 280, 1. 10. 1986, p. 79; (EEC) No 624/87, OJ No L 58, 28. 2. 1987, p. 101; (EEC) No 3955/87, (See page 14 of the Official Journal).
(8) See page 76 of the Official Journal.

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Whereas the Commission will, if the circumstances so require, immediately adopt a Regulation rendering applicable pre-established maximum permitted levels;

Whereas, on the basis of current data vailable in the field of radiation protection, derived reference levels have been established and these may be used as a basis for the fixing of maximum permitted levels of radioactive contamination to be applied immediately following a nuclear accident or any other case of radiological emergency which is likely to lead or has led to significant radioactive contamination of foodstuffs and feedingstuffs;

Whereas such maximum permitted levels take due account of the latest scientific advice as presently available on an international scale whilst reflecting the need for reassuring the public and avoiding divergences in international regulatory practice;

Whereas, however, it is necessary to take due account of the particular conditions applying and, therefore, to establish a procedure allowing the rapid adaptation of these pre-established levels to maximum permitted levels appropriate to the circumstances of any particular nuclear accident or any other case of radiological emergency which is likely to lead or has led to significant radioactive contamination of foodstuffs and feedingstuffs;

Whereas the adoption of a Regulation rendering applicable maximum permitted levels would also maintain the unity of the Common Market and avoid deflections of trade within the Community;

Whereas, in order to facilitate the adaptation of maximum permitted levels, procedures should be provided for allowing the consultation of experts including the Group of Experts referred to in Article 31 of the Treaty;

Whereas compliance with the maximum permitted levels will have to be the subject of appropriate checks,

HAS ADOPTED THIS REGULATION:

Article 1

1. This Regulation lays down the procedure for determining the maximum permitted levels of radioactive contamination of foodstuffs and of feedingstuffs which may be placed on the market following a nuclear accident or any other case of radiological emergency which is likely to lead to or has led to significant radioactive contamination of foodstuffs and feedingstuffs.

2. For the purposes of this Regulation, ‘foodstuffs’ means products which are intended for human consumption either immediately or after processing and ‘feedingstuffs’ means products which are intended only for animal nutrition.

Article 2

1. In the event of the Commission receiving — in particular according to either the Community arrangements for the early exchange of information in case of a radiological emergency or under the ►C1 IAEA Convention ◄ of 26 September 1986 on early notification of a nuclear accident — official information on accidents or on any other case of radiological emergency, substantiating that the maximum permissible levels in the Annex are likely to be reached or have been reached, it will immediately adopt, if the circumstances so require, a Regulation rendering applicable those maximum permissible levels.

2. The period of validity of any Regulation within the meaning of paragraph 1 shall be as short as possible and shall not exceed three months subject to the provisions of Article 3 (4).

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Article 3

1. After consultation with experts, which shall include the Article 31 Group of Experts, the Commission shall submit to the Council a proposal for a Regulation to adapt or confirm the provisions of the Regulation referred to in Article 2 (1) within one month of its adoption.

2. The Commission shall when submitting the proposal for a Regulation referred to in paragraph 1 take into account the basic standards laid down in accordance with Articles 30 to 31 of the Treaty including the principle that all exposures shall be kept as low as reasonably achievable, taking the aspect of the protection of the health of the general public and economic and social factors into account.

3. The Council shall, acting by a qualified majority, take a decision on the proposal for a Regulation referred to in paragraphs 1 and 2 within the time limit set out in Article 2 (2).

4. In the event that the Council does not decide within this time limit, the levels set out in the Annex shall continue to apply until the Council does decide or until the Commission withdraws its proposal because the conditions set out in Article 2 (1) no longer apply.

Article 4

The period of validity of any Regulation within the meaning of Article 3 shall be limited. This period may be revised at the request of a Member State or on the initiative of the Commission in accordance with the procedure laid down in Article 3.

Article 5

1. In order to ensure that the maximum permitted levels laid down in the Annex take account of any new scientific data becoming available, the Commission shall from time to time, seek the opinion of experts, which shall include the Article 31 Group of Experts.

2. At the request of a Member State or the Commission, the maximum permitted levels laid down in the Annex may be revised or supplemented, upon the submission of a proposal from the Commission to the Council in accordance with the procedure laid down in Article 31 of the Treaty.

Article 6

1. Foodstuffs or feedingstuffs not in compliance with the maximum permitted levels laid down in a Regulation adopted in accordance with Articles 2 or 3 shall not be placed on the market. For the purposes of applying this Regulation, foodstuffs or feedingstuffs imported from third countries shall be considered to be placed on the market if, on the customs territory of the Community, they undergo a customs procedure other than a transit procedure.

2. Each Member State shall provide the Commission with all information concerning the application of this Regulation, in particular concerning cases of non-compliance with the maximum permitted levels. The Commission shall communicate such information to the other Member States.

Article 7

Rules for applying this Regulation and a list of minor foodstuffs together with the maximum levels to be appliced thereto shall be adopted in accordance with the procedure laid down in Article 30 of Regulation (EEC) No 804/68 [1], which shall apply by analogy. To this end an *ad hoc* Committee shall be set up.

[1] OJ No L 148, 28. 6. 1968, p. 13.

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Article 8

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

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

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ANNEX

MAXIMUM PERMITTED LEVELS FOR FOODSTUFFS AND FEEDINGSTUFFS

(Bq/kg or Bq/l)

	Baby foods (1)	Dairy Produce (2) (3)	Other foodstuffs except minor foodstuffs (4)	Liquid foodstuffs (5)	Feedingstuffs (6)
Isotopes of strontium, notably Sr-90		125	750		
Isotopes of iodine notably I-131		500	2 000		
Alpha-emitting isotopes of plutonium and transplutonium elements, notably Pu-239, Am-241		20	80		
All other nuclides of half-life greater than 10 days, notably Cs-134, Cs-137 (7)		1 000	1 250		

(1) Baby foods are defined as those foodstuffs intended for the feeding of infants during the first four to six months of life, which meet, in themselves, the nutritional requirements of this category of person and are put up for retail sale in packages which are clearly identified and labelled 'food preparation for infants'. Values to be established.

(2) Dairy produce is defined as milk falling within headings Nos 04.01 and 04.02 of the Common Customs Tariff, and the corresponding headings of the combined nomenclature as from 1 January 1988.

(3) The level applicable to concentrated or dried products shall be calculated on the basis of the reconstituted product as ready for consumption.

(4) Minor foodstuffs and the corresponding levels to be applied to them will be as defined in accordance with Article 7.

(5) Liquid foodstuffs as defined by Chapters 20 and 22 of the Common Customs Tariff and by the corresponding Chapter of the combined nomenclature as from 1 January 1988. Values are calculated taking into account consumption of tap-water and the same values should be applied to drinking water supplies at the discretion of competent authorities in Member States. Values for liquid foodstuffs to be established.

(6) Values to be established.

(7) Carbon 14 and tritium are not included in this group.