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


Amended by:

►M1 Council Regulation (Euratom) No 2218/89 of 18 July 1989
L 211 1 22.7.1989

Corrected by:

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

(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.
(8) See page 76 of the Official Journal.
Whereas the Commission will, if the circumstances so require, immedi-
ately 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 IAEA Convention of 26 September 1986 on early notifi-
cation 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).
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, a list of minor foodstuffs together with the maximum levels to be applied thereto, and the maximum levels for feedingstuffs shall be adopted in accordance with the procedure laid down in Article 30 of Regulation (EEC) No 804/68, which shall apply by analogy. To this end an ad hoc Committee shall be set up.
Article 8

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

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

**MAXIMUM PERMITTED LEVELS FOR FOODSTUFFS AND FEEDINGSTUFFS (Bq/kg)**

<table>
<thead>
<tr>
<th></th>
<th>Foodstuffs (1)</th>
<th>Feeding-stuffs (2)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Baby foods (2')</td>
<td>Dairy produce (2')</td>
</tr>
<tr>
<td>Isotopes of strontium, notably Sr-90</td>
<td>75</td>
<td>125</td>
</tr>
<tr>
<td>Isotopes of iodine, notably I-131</td>
<td>150</td>
<td>500</td>
</tr>
<tr>
<td>Alpha-emitting isotopes of plutonium and transplutonium elements, notably Pu-239, Am-241</td>
<td>1</td>
<td>20</td>
</tr>
<tr>
<td>All other nuclides of half-life greater than 10 days, notably Cs-134, Cs-137 (7)</td>
<td>400</td>
<td>1 000</td>
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</tbody>
</table>

(1') The level applicable to concentrated or dried products is calculated on the basis of the reconstituted product as ready for consumption. Member States may make recommendations concerning the diluting conditions in order to ensure that the maximum permitted levels laid down in this Regulation are observed.

(2') Maximum permitted levels for feedingstuffs will be defined in accordance with Article 7, since such levels are intended to contribute to the observance of the permitted maximum levels for foodstuffs, do not alone guarantee such observance in all circumstances and do not lessen the requirement for monitoring levels in animal products destined for human consumption.

(3') 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’.

(4') Dairy produce is defined as those products falling within the following CN codes including, where appropriate, any adjustments which might be made to them later: 0401, 0402 (except 0402 29 11).

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

(6') Liquid foodstuffs as defined in the heading 2009 and in chapter 22 of the combined nomenclature. 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.

(7') Carbon 14, tritium and potassium 40 are not included in this group.