Commission Regulation (EU) No 420/2011 of 29 April 2011 amending Regulation (EC) No 1881/2006 setting maximum levels for certain contaminants in foodstuffs (Text with EEA relevance)

COMMISSION REGULATION (EU) No 420/2011

of 29 April 2011

amending Regulation (EC) No 1881/2006 setting maximum levels for certain contaminants in foodstuffs

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

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) Commission Regulation (EC) No 1881/2006 of 19 December 2006 setting maximum levels for certain contaminants in foodstuffs[(2)] sets maximum levels for contaminants in a range of foodstuffs.

(2) Taking into account the different interpretations with regard to the portion of crabs to be analysed for comparison with the maximum level for cadmium, it should therefore be clarified that the maximum level set for cadmium in crustaceans in the Annex to Regulation (EC) No 1881/2006 applies to muscle meat from appendages (legs and claws) and abdomen. For crabs and crab-like crustaceans, the maximum level applies to the appendages only. This definition excludes other parts of crustaceans, such as the cephalothorax of crabs and inedible parts (shell, tail). The cephalothorax comprises the digestive organs (hepatopancreas) which are known to contain high levels of cadmium. As in some Member States consumers may eat parts of the cephalothorax on a regular basis, consumer advice at a Member State level to limit consumption of these parts may be appropriate to reduce exposure to cadmium. An Information Note on this issue has been made available on the website of the Health and Consumers Directorate General of the European Commission[(3)].

(3) For reasons of consistency the portion of crustaceans to which the maximum levels apply should be modified for other contaminants (lead, mercury, dioxins and PCBs and polycyclic aromatic hydrocarbons) accordingly.

(4) Bivalve molluscs such as green shell mussels and oysters can accumulate cadmium similarly to seaweed. Since green shell mussel powder and oyster powder, like dried seaweed, are sold as food supplements, the maximum level for cadmium in dried bivalve mollusc should be the same as the one currently established for dried seaweed and products derived from seaweed.

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EU) No 420/2011. (See end of Document for details)*

(5) The provisions for leafy brassica should be aligned with those of other leaf vegetables. Leafy brassica should therefore be excluded from the default maximum level for cadmium in 'vegetables and fruit' in point 3.2.15 and should be included in point 3.2.17.

(6) The default maximum levels for lead and cadmium in fruit and vegetables are not realistic for seaweed, which can naturally contain higher levels. Seaweed should therefore be exempted from the default maximum levels for lead and cadmium in fruit and vegetables (points 3.1.10 and 3.2.15). More occurrence data should be collected to decide about the need for specific more realistic maximum levels for lead and cadmium in seaweed.

(7) Some inconsistencies exist with regard to the names of the foodstuffs/product groups in Regulation (EC) No 1881/2006 and the names of the foodstuffs/product groups listed in Regulation (EC) No 396/2005 of the European Parliament and of the Council of 23 February 2005 on maximum residue levels of pesticides in or on food and feed of plant and animal origin and amending Council Directive 91/414/EEC[(4)]. Since Regulation (EC) No 1881/2006 refers to the product groups listed in Regulation (EC) No 396/2005 these names should be aligned to that Regulation.

(8) It is appropriate to update the provisions on monitoring and reporting taking into account recent monitoring recommendations on ethylcarbamate[(5)], perfluoroalkylated substances[(6)], and acrylamide[(7)]. Since Commission Decision 2006/504/EC[(8)] has been repealed and replaced by Commission Regulation (EC) No 1152/2009[(9)], the reference to Decision 2006/504/EC should be replaced by a reference to Regulation (EC) No 1152/2009. Furthermore, it should be clarified which data is reported to the Commission and which to EFSA.

(9) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health and neither the European Parliament nor the Council have opposed them,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1881/2006 is amended as follows:

(1) Article 9 is amended as follows:

(a) paragraphs 2 and 3 are replaced by the following:

2. Member States and interested parties shall communicate each year to the Commission the results of investigations undertaken and the progress with regard to the application of prevention measures to avoid contamination by ochratoxin A, deoxynivalenol, zearalenone, fumonisin B_1 and B_2, T-2 and HT-2 toxin. The Commission shall make the results available to the Member States. The related occurrence data shall be reported to EFSA.

3 Member States shall report to the Commission findings on aflatoxins obtained in accordance with Commission Regulation (EC) No 1152/2009[(10)]. Member States should report to EFSA findings on furan, ethylcarbamate, perfluoroalkylated substances and acrylamide

obtained in accordance with Commission Recommendations 2007/196/EC[11], 2010/133/EU[12], 2010/161/EU[13] and 2010/307/EU[14].;

(b) the following paragraph 4 is added:

4. Occurrence data on contaminants collected by Member States should, if appropriate, also be reported to EFSA.;

(2) the Annex is amended in accordance with the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the 20th day following 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.

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EU) No 420/2011. (See end of Document for details)*

ANNEX

The Annex to Regulation (EC) No 1881/2006 is amended as follows:

(1) In Section 3.1 on lead, points 3.1.6, 3.1.9, 3.1.10 and 3.1.11 are replaced by the following:

Foodstuffs ([1])		**Maximum levels (mg/kg wet weight)**
'3.1.6	Crustaceans ([26]): muscle meat from appendages and abdomen ([44]). In case of crabs and crab-like crustaceans (*Brachyura and Anomura*) muscle meat from appendages.	0,5'
'3.1.9	Legume vegetables ([27]), cereals and pulses	0,2'
'3.1.10	Vegetables, excluding brassica vegetables, leaf vegetables, fresh herbs, fungi and seaweed ([27]). For potatoes the maximum level applies to peeled potatoes.	0,1'
'3.1.11	Brassica vegetables, leaf vegetables ([43]) and the following fungi ([27]): *Agaricus bisporus* (common mushroom), *Pleurotus ostreatus* (Oyster mushroom), *Lentinula edodes* (Shiitake mushroom)	0,3'

(2) In section 3.2 on cadmium, points 3.2.9, 3.2.15, 3.2.16, 3.2.17 and 3.2.20 are replaced by the following:

Foodstuffs ([1])		**Maximum levels (mg/kg wet weight)**
'3.2.9	Crustaceans ([26]): muscle meat from appendages and abdomen ([44]). In case of crabs and crab-like crustaceans (*Brachyura and Anomura*) muscle meat from appendages.	0,5'
'3.2.15	Vegetables and fruit, excluding leaf vegetables,	0,05'