Commission Regulation (EC) No 333/2007 of 28 March 2007 laying down the methods of sampling and analysis for the control of the levels of trace elements and processing contaminants in foodstuffs (Text with EEA relevance)

[[F1]COMMISSION REGULATION (EC) No 333/2007

of 28 March 2007

laying down the methods of sampling and analysis for the control of the levels of trace elements and processing contaminants in foodstuffs**]**

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 882/2004 of the European Parliament and of the Council of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules[(1)], in particular Article 11(4) thereof,

Whereas:

(1) Council Regulation (EEC) No 315/93 of 8 February 1993 laying down Community procedures for contaminants in food[(2)] provides that maximum levels must be set for certain contaminants in foodstuffs in order to protect public health.

(2) Commission Regulation (EC) No 1881/2006 of 19 December 2006 setting maximum levels for certain contaminants in foodstuffs[(3)] establishes maximum levels for lead, cadmium, mercury, inorganic tin, 3-MCPD and benzo(a)pyrene in certain foodstuffs.

(3) Regulation (EC) No 882/2004 lays down general principles for the official control of foodstuffs. However, in certain cases more specific provisions are necessary to ensure that official controls are performed in a harmonised manner in the Community.

(4) The methods of sampling and analysis to be used for the official control of levels of lead, cadmium, mercury, 3-MCPD, inorganic tin and benzo(a)pyrene in certain foodstuffs are established in Commission Directive 2001/22/EC of 8 March 2001 laying down the sampling methods and the methods of analysis for the official control of the levels of lead, cadmium, mercury and 3-MCPD in foodstuffs[(4)], Commission Directive 2004/16/EC of 12 February 2004 laying down the sampling methods and the methods of analysis for the official control of the levels of tin in canned foods[(5)] and Commission Directive 2005/10/EC of 4 February 2005 laying down the sampling methods and the methods of analysis for the official control of the levels of benzo(a)pyrene in foodstuffs[(6)], respectively.

(5) Numerous provisions on sampling and analysis for the official control of the levels of lead, cadmium, mercury, inorganic tin, 3-MCPD and benzo(a)pyrene in foodstuffs are similar. Therefore, in the interest of clarity of legislation, it is appropriate to merge those provisions in one single legislative act.

Changes to legislation: *There are outstanding changes not yet made to Commission Regulation (EC) No 333/2007. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(6) Directives 2001/22/EC, 2004/16/EC and 2005/10/EC should therefore be repealed and replaced by a new Regulation.

(7) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee for the Food Chain and Animal Health,

HAS ADOPTED THIS REGULATION:

Textual Amendments

F1 Substituted by Commission Regulation (EU) 2016/582 of 15 April 2016 amending Regulation (EC) No 333/2007 as regards the analysis of inorganic arsenic, lead and polycyclic aromatic hydrocarbons and certain performance criteria for analysis (Text with EEA relevance).

Article 1

[F2 1 Sampling and analysis for the control of the levels of lead, cadmium, mercury, inorganic tin, inorganic arsenic, 3-monochloropropane-1,2-diol (3-MCPD), 3-MCPD fatty acid esters, glycidyl fatty acid esters, polycyclic aromatic hydrocarbons (PAH) and perchlorate listed in Sections 3, 4, 6 and 9 of the Annex to Regulation (EC) No 1881/2006 and for the control of the levels of acrylamide in accordance with Commission Regulation (EU) 2017/2158[7] shall be carried out in accordance with the Annex to this Regulation.**]**

2 Paragraph 1 shall apply without prejudice to the provisions of Regulation (EC) No 882/2004.

Textual Amendments

F2 Substituted by Commission Implementing Regulation (EU) 2019/2093 of 29 November 2019 amending Regulation (EC) No 333/2007 as regards the analysis of 3-monochloropropane-1,2-diol (3-MCPD) fatty acid esters, glycidyl fatty acid esters, perchlorate and acrylamide (Text with EEA relevance).

Article 2

Directives 2001/22/EC, 2004/16/EC and 2005/10/EC are hereby repealed.

References to the repealed Directives shall be construed as references to this Regulation.

Article 3

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

It shall apply from 1 June 2007.

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

***Changes to legislation:** There are outstanding changes not yet made to Commission Regulation (EC) No 333/2007. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

ANNEX

PART A

DEFINITIONS

For the purposes of this Annex, the following definitions shall apply:

'lot'	:	an identifiable quantity of food delivered at one time and determined by the official to have common characteristics, (such as origin, variety, type of packing, packer, consignor or markings). In the case of fish, also the size of fish shall be comparable;
'sublot'	:	designated part of a large lot in order to apply the sampling method on that designated part. Each sublot must be physically separated and identifiable;
'incremental sample'	:	a quantity of material taken from a single place in the lot or sublot;
'aggregate sample'	:	the combined total of all the incremental samples taken from the lot or sublot; aggregate samples shall be considered as representative of the lots or sublots from which they are taken;
'laboratory sample'	:	a sample intended for the laboratory.

PART B

SAMPLING METHODS

B.1. GENERAL PROVISIONS

B.1.1. Personnel

Sampling shall be performed by an authorised person as designated by the Member State.

B.1.2. Material to be sampled

Each lot or sublot which is to be examined shall be sampled separately.

B.1.3. Precautions to be taken

In the course of sampling, precautions shall be taken to avoid any changes which would affect the levels of contaminants, adversely affect the analytical determination or make the aggregate samples unrepresentative.

B.1.4. Incremental samples

As far as possible, incremental samples shall be taken at various places distributed throughout the lot or sublot. Departure from such procedure shall be recorded in the record provided for under point B.1.8. of this Annex.

B.1.5. Preparation of the aggregate sample

The aggregate sample shall be made up by combining the incremental samples.

B.1.6. Samples for enforcement, defence and referee purposes

Changes to legislation: *There are outstanding changes not yet made to Commission Regulation (EC) No 333/2007. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

The samples for enforcement, defence and referee purposes shall be taken from the homogenised aggregate sample unless this conflicts with the rules of the Member States as regards the rights of the food business operator.

B.1.7. Packaging and transmission of samples

Each sample shall be placed in a clean, inert container offering adequate protection from contamination, from loss of analytes by adsorption to the internal wall of the container and against damage in transit. All necessary precautions shall be taken to avoid any change in composition of the sample which might arise during transportation or storage.

[[F3]In case of sampling for PAH analysis plastic containers shall be avoided if possible as they could alter the PAH content of the sample. Inert, PAH-free glass containers, adequately protecting the sample from light, shall be used wherever possible. Where this is practically impossible, at least direct contact of the sample with plastics shall be avoided, e.g. in case of solid samples by wrapping the sample in aluminium foil before placing it in the sampling container.**]**

Textual Amendments

F3 Inserted by Commission Regulation (EU) No 836/2011 of 19 August 2011 amending Regulation (EC) No 333/2007 laying down the methods of sampling and analysis for the official control of the levels of lead, cadmium, mercury, inorganic tin, 3-MCPD and benzo(a)pyrene in foodstuffs (Text with EEA relevance).

B.1.8. Sealing and labelling of samples

Each sample taken for official use shall be sealed at the place of sampling and identified following the rules of the Member States.

A record shall be kept of each sampling, permitting each lot or sublot to be identified unambiguously (reference to the lot number shall be given) and giving the date and place of sampling together with any additional information likely to be of assistance to the analyst.

[[F4]B.2. SAMPLING PLANS

B.2.1. **Division of lots into sublots**

Large lots shall be divided into sublots on condition that the sublot may be separated physically. For products traded in bulk consignments (e.g. cereals) Table 1 shall apply. For other products Table 2 shall apply. 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 sublot may exceed the mentioned weight by a maximum of 20 %.

B.2.2. **Number of incremental samples**

The aggregate sample shall be at least 1 kg or 1 litre except where it is not possible, e.g. when the sample consists of 1 package or unit.

The minimum number of incremental samples to be taken from the lot or sublot shall be as given in Table 3.

In the case of bulk liquid products the lot or sublot shall be thoroughly mixed in so far as possible and in so far it does not affect the quality of the product, by either manual or mechanical means immediately prior to sampling. In this case, a homogeneous distribution of contaminants is assumed within a given lot or sublot. It is therefore sufficient to take three incremental samples from a lot or sublot to form the aggregate sample.

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The incremental samples shall be of similar weight/volume. The weight/volume of an incremental sample shall be at least 100 grams or 100 millilitres, resulting in an aggregate sample of at least about 1 kg or 1 litre. Departure from this method shall be recorded in the record provided for under point B.1.8 of this Annex.

TABLE 1

Subdivision of lots into sublots for products traded in bulk consignments

Lot weight (ton)	Weight or number of sublots
≥ 1 500	500 tonnes
> 300 and < 1 500	3 sublots
≥ 100 and ≤ 300	100 tonnes
< 100	—

TABLE 2

Subdivision of lots into sublots for other products

Lot weight (ton)	Weight or number of sublots
≥ 15	15-30 tonnes
< 15	—

TABLE 3

Minimum number of incremental samples to be taken from the lot or sublot

Weight or volume of lot/sublot (in kg or litre)	Minimum number of incremental samples to be taken
< 50	3
≥ 50 and ≤ 500	5
> 500	10

If the lot or sublot consists of individual packages or units, then the number of packages or units which shall be taken to form the aggregate sample is given in Table 4.

TABLE 4

Number of packages or units (incremental samples) which shall be taken to form the aggregate sample if the lot or sublot consists of individual packages or units

Number of packages or units in the lot/ sublot	Number of packages or units to be taken
≤ 25	at least 1 package or unit
26-100	about 5 %, at least 2 packages or units
> 100	about 5 %, at maximum 10 packages or units

The maximum levels for inorganic tin apply to the contents of each can, but for practical reasons it is necessary to use an aggregate sampling approach. If the result of the test for an aggregate sample of cans is less than but close to the maximum level of inorganic tin and if it is suspected