Commission Regulation (EC) No 1882/2006 of 19 December 2006 laying down methods of sampling and analysis for the official control of the levels of nitrates in certain foodstuffs (Text with EEA relevance)

COMMISSION REGULATION (EC) No 1882/2006

of 19 December 2006

laying down methods of sampling and analysis for the official control of the levels of nitrates in certain 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) Commission Regulation (EC) No 1881/2006 of 19 December 2006 setting maximum levels for certain contaminants in foodstuffs[(2)] provides for maximum levels for nitrates in spinach, lettuce, iceberg-type lettuce, baby foods and processed cereal-based food for infants and young children.

(2) Sampling plays an important role in the precision of the determination of the levels of nitrates, as well the sample preparation procedures.

(3) It is necessary to fix general criteria with which the method of analysis should comply in order to ensure that control laboratories use methods of analysis with comparable levels of performance.

(4) Fresh lettuce and spinach are very perishable products and it is in most cases not possible to detain the consignments until the analytical result of the official control is available. Therefore in these cases competent authorities might consider it appropriate and necessary to perform an official sampling at the field shortly before harvest.

(5) 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:

Article 1

Sampling, sample preparation and analyses for the official control of the levels of nitrates in foodstuffs listed in Section 1 of the Annex to Regulation (EC) No 1881/2006 shall be carried out in accordance with the methods set out in the Annex to this Regulation.

Changes to legislation: *There are outstanding changes not yet made to Commission Regulation (EC) No 1882/2006. 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*

Article 2

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 March 2007.

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

Done at Brussels, 19 December 2006.

For the Commission

Markos KYPRIANOU

Member of the Commission

***Changes to legislation:** There are outstanding changes not yet made to Commission Regulation (EC) No 1882/2006. 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

METHODS OF SAMPLING, SAMPLE PREPARATION AND ANALYSIS FOR OFFICIAL CONTROL OF LEVELS OF NITRATES IN CERTAIN FOODSTUFFS

A.GENERAL PROVISIONS

Official controls shall be performed in accordance with the provisions of Regulation (EC) No 882/2004. The following general provisions shall apply without prejudice to the provisions in Regulation (EC) No 882/2004.

A.1 Scope

Samples intended for official control of the levels of nitrate content in foodstuffs listed in Section 1 of the Annex to Regulation (EC) No 1881/2006 shall be taken according to the methods set out in this Annex. Aggregate samples thus obtained, either directly from a field or from a lot, shall be considered as representative of the lots.

Compliance shall be established on the basis of the levels determined in the laboratory samples.

A.2 Definitions

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

A.2.1 ‘lot’ means an identifiable quantity of a food commodity to be harvested at the same time or delivered at one time and determined by the official to have common characteristics, such as origin, variety or soil type within a maximum area of 2 hectares, type of packing, packer, consignor or markings.

A.2.2 ‘sublot’ means a designated part of a large lot in order to apply the sampling method on that designated part; each sublot must be physically separate and identifiable.

A.2.3 ‘incremental sample or unit’ means a quantity of material taken from a single place in the lot or sublot. In this case it may be a single lettuce or spinach head, or handful of baby leaf, or one bag of cut leaves.

A.2.4 ‘aggregate sample’ means the combined total of all the incremental samples taken from the lot or sublot.

A.2.5 ‘laboratory sample’ means a sample intended for the laboratory.

A.2.6 ‘field’ means a specified area of land of the same soil type and cultivation practice, containing a single variety of lettuce or spinach at same growth stage. ‘Field’ may also be referred to as ‘lot’ in the method of sampling.

A.2.7 ‘area under cover’ means a specified area of land covered by a glasshouse or a polytunnel (plastic or polyethylene tunnel or greenhouse) containing a single variety of lettuce or spinach at the same growth stage and to be harvested at the same time. ‘Area under cover’ may also be referred to as ‘lot’ in the method of sampling.

A.3 General provisions

A.3.1 Personnel

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

A.3.2 Material to be sampled

Each lot which is to be examined shall be sampled separately. Large lots (i.e. lots of more than 30 tonnes or larger than 3 hectares) shall be subdivided into sublots to be sampled separately.

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A.3.3 Precautions to be taken

In the course of sampling and preparation of the samples, precautions shall be taken to avoid any changes, which would affect:

— the nitrate content, adversely affect the analytical determination or make the aggregate samples unrepresentative, e.g. the presence of soil on lettuce or spinach during sample preparation,

— the food safety or integrity of the lots to be sampled.

Also, all measures necessary to ensure the safety of the persons taking the samples shall be taken.

A.3.4 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 part A.3.8. of this Annex.

A.3.5 Preparation of the aggregate sample

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

A.3.6 Replicate samples

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

A.3.7 Packaging and transmission of samples

Each sample shall be placed in a clean, inert sealed opaque plastic bag to prevent loss of moisture and offering adequate protection against any damage or contamination.

The sample must be transferred to the laboratory within 24 hours of sampling and shall be kept cool during transport. If this is not possible the sample shall be deep-frozen within 24 hours and kept frozen (up to a maximum of six weeks).

All additional necessary precautions shall be taken to avoid any change in composition of the sample, which might arise during transportation or storage.

A.3.8 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 State.

A record shall be kept of each sampling, permitting each lot to be identified unambiguously and the sampling officer shall record the variety, grower, production method, date, place of sampling, food business operator responsible for consignment, and any other relevant information likely to be of assistance to the analyst.

A.4 Different types of lots

Food commodities may be traded in bulk or in containers, including sacks, bags and crates, or in individual retail packings. The method of sampling may be applied to all the different forms in which the commodities are put on the market.

B. METHOD OF SAMPLING

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As far as possible, incremental samples shall be taken at various places throughout the lot or sublot.

B.1 Sampling in the field

In case the competent authority considers it necessary to sample the lettuce or spinach in the field, the sampling has to be performed as follows:

Incremental samples shall not be collected from areas that appear to be unrepresentative of the field or area under cover. Areas with different soil types, which have been subjected to different cultivation practices or contain different lettuce or spinach varieties, or to be harvested at a different time, shall be treated as separate lots or fields. If the field is larger than 3 hectares, the field shall be divided into sublots of 2 hectares and each sublot shall be sampled separately.

Incremental samples shall be collected by walking a 'W' or 'X' shaped pattern across the field. Crops harvested from narrow beds or area under cover shall be harvested in a 'W' or 'X' shaped pattern from several beds and pooled to form the aggregate sample.

Plants must be cut at ground level.

The sample must contain at least 10 plants, and the aggregate sample of 10 plants must weigh at least 1 kg. Only units of a marketable size shall be sampled[(3)]. Soil, outer non-edible and damaged leaves shall be removed from each unit.

B.2 Sampling of lots of spinach, lettuce, baby foods and processed cereal based food for infants and young children on the market

The sampling method is applicable to lots smaller than or equal to 25 tonnes.

In the case of large lots (lots > 30 tonnes), the lot shall be subdivided into sublots of in principle 25 tonnes on condition that the sublot may be separated physically. Taking into account that the weight of the lot is not always an exact multiple of 25 tonnes, the weight of the sublot may exceed the mentioned weight by a maximum of 20 %. This means that the sublot may have weight ranging from 15 to 30 tonnes. In case the lot is not or cannot be physically separated into sublots, the sample is taken from the lot.

The aggregate sample shall be at least 1 kg, except where it is not possible e.g. when sampling a single head or package.

The minimum number of incremental samples to be taken from the lot shall be as given in Table 1.

TABLE 1

Minimum number of incremental samples to be taken from the lot

Weight of lot (in kg)	**Minimum number of incremental samples to be taken**	**Aggregate sample minimum weight (kg)**
< 50	3	1
50 to 500	5	1
> 500	10	1

If the lot consists of individual packages, then the number of packages, which shall be taken to form the aggregate sample, is given in Table 2.