Commission Regulation (EC) No 1822/2005 of 8 November 2005 amending Regulation (EC) No 466/2001 as regards nitrate in certain vegetables (Text with EEA relevance)

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(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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,

After consulting the Scientific Committee on Food,

Whereas:

(1) Commission Regulation (EC) No 466/2001 of 8 March 2001 setting maximum levels for certain contaminants in foodstuffs[(2)], as amended by Regulation (EC) No 563/2002[(3)], makes provision in particular for specific measures concerning nitrate levels in lettuce and spinach and lays down transitional periods during which lettuce and spinach containing nitrate in excess of the maximum level can be marketed within national territory.

(2) Despite developments in the application of good agricultural practice, monitoring data from Member States indicate ongoing problems in complying with the maximum levels of nitrate for lettuce and spinach.

(3) Many of the failures to comply with the maximum levels for nitrate in fresh spinach occur in the month of October. The summer period for spinach currently includes October, whereas for lettuce October is in the winter period. For consistency, October should be included in the winter period for fresh spinach.

(4) In regions where there are difficulties to keep nitrate below the maximum levels for fresh lettuce and fresh spinach, for example when associated with less daily sunlight, certain Member States have requested derogations and provided sufficient information to demonstrate that investigations are underway to help reduce levels in the future.

(5) Pending further developments in the application of good agricultural practice, it is appropriate to authorise those Member States for a limited period to allow fresh lettuce and fresh spinach containing nitrate above the maximum levels to continue to be marketed, but solely within their national territory and for national consumption.

(6) Nitrate is present in other vegetables, sometimes at high levels. To inform future discussions on a longer-term strategy for managing the risk from nitrate in vegetables,

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EC) No 1822/2005. (See end of Document for details)*

Member States should monitor nitrate levels in vegetables and aim to reduce levels where feasible, in particular by applying improved codes of good agricultural practice. An updated scientific risk assessment from the European Food Safety Authority would help to clarify the risks posed by nitrate in vegetables. The maximum levels laid down in Regulation (EC) No 466/2001 would be reviewed taking into account information from the above activities.

(7) Regulation (EC) No 466/2001 should be amended accordingly.

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

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 466/2001 is amended as follows:

1. Article 3 is deleted;

2. the following Article 3a is inserted:

Article 3a

Member States shall monitor nitrate levels in vegetables containing significant levels, in particular green leafy vegetables, and communicate the results to the Commission by 30 June each year.;

3. the following Article 3b is inserted:

Article 3b

1 By way of derogation from Article 1(1), Belgium, Ireland, the Netherlands and the United Kingdom are authorised until 31 December 2008 to place on the market fresh spinach grown and intended for consumption in their territory with nitrate levels higher than the maximum levels set out in point 1.1 of Annex I.

2 By way of derogation from Article 1(1), Ireland and the United Kingdom are authorised until 31 December 2008 to place on the market fresh lettuce grown and intended for consumption in their territory and harvested throughout the year with nitrate levels higher than the maximum levels set out in point 1.3 of Annex I.

By way of derogation from Article 1(1), France is authorised until 31 December 2008 to place on the market fresh lettuce grown and intended for consumption in its territory and harvested from 1 October to 31 March with nitrate levels higher than the maximum levels set out in point 1.3 of Annex I.;

4. Section 1 of Annex I to Regulation (EC) No 466/2001 is replaced by the table as laid down in 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.

Done at Brussels, 8 November 2005.

For the Commission

Markos KYPRIANOU

Member of the Commission