

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION RECOMMENDATION

of 6 February 2006

on the reduction of the presence of dioxins, furans and PCBs in feedingstuffs and foodstuffs

(notified under document number C(2006) 235)

(Text with EEA relevance)

(2006/88/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular the second indent of Article 211 thereof,

Whereas:

- (1) Commission Recommendation 2002/201/EC of 4 March 2002 on the reduction of the presence of dioxins, furans and PCBs in feedingstuffs and foodstuffs ⁽¹⁾ is a part of an overall strategy to reduce the presence of dioxins, furans and PCBs in environment, feed and food. Its purpose is to recommend action levels and, over-time, target levels for feed and food.
- (2) Although, from a toxicological point of view, any level should apply to dioxins and dioxin-like PCBs, maximum levels in foodstuffs were in 2001 set only for dioxins and not for dioxin-like PCBs by Commission Regulation (EC) No 466/2001 of 8 March 2001 setting maximum levels for certain contaminants in foodstuffs ⁽²⁾ given the very limited data available at that moment on the prevalence of the dioxin-like PCBs. Similarly, maximum levels in feedingstuffs were in 2001 set only for dioxins and not for dioxin-like PCBs by Directive 2002/32/EC of the European Parliament and of the Council of 7 May 2002 on undesirable substances in animal feed ⁽³⁾.
- (3) According to Regulation (EC) No 466/2001, the Commission should review the provisions as regards dioxins in food for the first time by the end of 2004 in the light of new data on the presence of dioxins and dioxin-like PCBs, in particular with a view to the inclusion of dioxin-like PCBs in the levels to be set. Directive 2002/32/EC contains a similar review clause as regards dioxins in feedingstuffs.
- (4) In the meantime more data on the presence of dioxin-like PCBs in feed and food have been made available. As a consequence, maximum levels have been set for the sum of dioxins and dioxin-like PCBs expressed in World Health Organisation (WHO) toxic equivalents, using the WHO-TEFs as this is the most appropriate approach from a toxicological point. In order to ensure a smooth transition, existing maximum levels for dioxins should remain applicable for a transitional period in addition to the newly set levels for the sum of dioxins and dioxin-like PCBs.
- (5) Action levels for dioxins have been set by Recommendation 2002/201/EC in order to stimulate a pro-active approach to reduce the presence of dioxins and dioxin-like PCBs in food and feed. These action levels are a tool for competent authorities and operators to highlight those cases where it is appropriate to identify a source of contamination and to take measures for its reduction or elimination. Given the sources of dioxins and dioxin-like PCBs are different, it is appropriate that separate action levels are determined for dioxins on the one hand and for dioxin-like PCBs on the other hand. It is therefore appropriate to replace Recommendation 2002/201/EC.

⁽¹⁾ OJ L 67, 9.3.2002, p. 69.

⁽²⁾ OJ L 77, 16.3.2001, p. 1. Regulation as last amended by Regulation (EC) 1822/2005 (OJ L 293, 9.11.2005, p. 11).

⁽³⁾ OJ L 140, 30.5.2002, p. 10. Directive as last amended by Commission Directive 2005/87/EC (OJ L 318, 6.12.2005, p. 19).

- (6) Furthermore, the action levels should be periodically adjusted in line with the downward trend in dioxin and dioxin-like PCB presence and the active approach pursued to gradually reduce their presence in feeding-stuffs and foodstuffs.
- (7) Directive 2002/32/EC provides for the possibility to set action levels. It is therefore appropriate to transfer the action levels for dioxins and dioxin-like PCBs in feeding-stuffs to Directive 2002/32/EC.
- (8) The target levels indicate the contamination levels to be achieved in feed and food in order to ultimately bring human exposure for the majority of the population of the Community down to the TWI for dioxins and dioxin-like PCBs set by the Scientific Committee for Food (SCF). They should be set in the light of more accurate information on the impact of environmental measures and the source directed measures at the level of feed and food on the reduction of the presence of dioxins and dioxin-like PCBs in the different feed materials, feeding-stuffs and foodstuffs. Given that the determination of these target levels involves the consideration of many different factors, the setting of these target levels should be postponed to the end of 2008,
- (a) initiate investigations to identify the source of contamination,
- (b) take measures to reduce or eliminate the source of contamination,
- (c) check for the presence of non-dioxin-like PCBs;
- (3) That Member States in which background levels of dioxin and dioxin-like PCBs are particularly high set national action levels for their domestic production of feed materials, feedingstuffs and foodstuffs, such that for about 5 % of the results obtained in the monitoring referred to in point 1, an investigation is undertaken to identify the source of contamination;
- (4) That Member States inform the Commission and the other Member States of their findings, the results of their investigations and the measures taken to reduce or eliminate the source of contamination;
- (5) That Member States transmit the information referred to in point 4 by 31 March of each year at the latest for foodstuffs and as part of the annual report to be submitted to the Commission pursuant to Article 22(2) of Council Directive 95/53/EC⁽³⁾ for feedingstuffs, except where the information is of immediate relevance for the other Member States in which case it should be transmitted immediately. After the implementation of the multi-annual national control plans referred to in Articles 41 and 42 of 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⁽⁴⁾, the information can be transmitted as part of the annual report to be submitted to the Commission pursuant to Article 44 of Regulation (EC) No 882/2004.

HEREBY RECOMMENDS:

- (1) That Member States perform, proportionate to their production, use and consumption of feed materials, feedingstuffs and foodstuffs, random monitoring of the presence of dioxins and dioxin-like PCBs and — if possible- non-dioxin-like PCBs in feed materials, feeding-stuffs and foodstuffs. This monitoring should be carried out according to Commission Recommendation 2004/704/EC of 11 October 2004 on the monitoring of background levels of dioxins and dioxin-like PCBs in feedingstuffs⁽¹⁾ and Commission Recommendation 2004/705/EC of 11 October 2004 on the monitoring of background levels of dioxin and dioxin-like PCBs in foodstuffs⁽²⁾;
- (2) That in cases of non-compliance with the provisions of Directive 2002/32/EC and Regulation (EC) No 466/2001, and (subject to point 3) in cases where levels of dioxins and/or dioxin-like PCBs in excess of the action levels specified in Annex I to this Recommendation as regards foodstuffs and in Annex II of Directive 2002/32/EC as regards feedingstuffs are found, Member States, in co-operation with operators,

Commission Recommendation 2002/201/EC is hereby repealed as from 14 November 2006.

Done at Brussels, 6 February 2006.

For the Commission
Markos KYPRIANOU
Member of the Commission

⁽¹⁾ OJ L 321, 22.10.2004, p. 38.

⁽²⁾ OJ L 321, 22.10.2004, p. 45.

⁽³⁾ OJ L 265, 8.11.1995, p. 17. Directive as last amended by Directive 2001/46/EC of the European Parliament and of the Council (OJ L 234, 2.9.2001, p. 55).

⁽⁴⁾ OJ L 165, 30.4.2004, p. 1, as corrected by OJ L 191, 28.5.2004, p. 1.

ANNEX

Dioxins (sum of polychlorinated dibenzo-*para*-dioxins (PCDDs) and polychlorinated dibenzofurans (PCDFs), expressed in World Health Organisation (WHO) toxic equivalents using the WHO-TEFs (toxic equivalency factors, 1997)), and dioxin-like PCBs (sum of polychlorinated biphenyls, expressed in World Health Organisation (WHO) toxic equivalents using the WHO-TEFs (toxic equivalency factors, 1997)).

Food	Action level for dioxins + furans (WHO-TEQ) ⁽¹⁾	Action level for dioxin-like PCBs (WHO-TEQ) ⁽¹⁾	Target level (sum of dioxins, furan and dioxin-like PCBs (WHO-TEQ)) ⁽¹⁾
Meat and meat products ⁽²⁾			
— of ruminants (bovine animals, sheep)	1,5 pg/g fat ⁽³⁾	1,0 pg/g fat ⁽³⁾	⁽⁴⁾
— of poultry and farmed game	1,5 pg/g fat ⁽³⁾	1,5 pg/g fat ⁽³⁾	⁽⁴⁾
— of pigs	0,6 pg/g fat ⁽³⁾	0,5 pg/g fat ⁽³⁾	⁽⁴⁾
Liver and derived products of terrestrial animals	4,0 pg/g fat ⁽³⁾	4,0 pg/g fat ⁽³⁾	⁽⁴⁾
Muscle meat of fish and fishery products and products thereof, with the exception of eel ⁽⁵⁾ ⁽⁶⁾ ⁽⁷⁾	3,0 pg/g fresh weight	3,0 pg/g fresh weight	⁽⁴⁾
Muscle meat of eel (<i>Anguilla anguilla</i>) and products thereof ⁽⁵⁾ ⁽⁶⁾ ⁽⁷⁾	3,0 pg/g fresh weight	6,0 pg/g fresh weight	⁽⁴⁾
Milk ⁽⁸⁾ and milk products, including butter fat	2,0 pg/g fat ⁽³⁾	2,0 pg/g fat ⁽³⁾	⁽⁴⁾
Hen eggs and egg products ⁽⁹⁾	2,0 pg/g fat ⁽³⁾	2,0 pg/g fat ⁽³⁾	⁽⁴⁾
Oils and fats			
– Animal fat			
– – from ruminants	1,5 pg/g fat	1,0 pg/g fat	⁽⁴⁾
– – from poultry and farmed game	1,5 pg/g fat	1,5 pg/g fat	⁽⁴⁾
– – from pigs	0,6 pg/g fat	0,5 pg/g fat	⁽⁴⁾
– – mixed animal fats	1,5 pg/g fat	0,75 pg/g fat	⁽⁴⁾
– Vegetable oil and fats	0,5 pg/g fat	0,5 pg/g fat	⁽⁴⁾
– Marine oil (fish body oil, fish liver oil and oils from other marine organisms intended for human consumption)	1,5 pg/g fat	6,0 pg/g fat	⁽⁴⁾
Fruits, vegetables and cereals	0,4 ng/kg product	0,2 ng/kg product	⁽⁴⁾

⁽¹⁾ Upperbound concentrations: upperbound concentrations are calculated assuming that all the values of the different congeners less than the limit of quantification are equal to the limit of quantification.

⁽²⁾ Meat of bovine animals, sheep, pig, poultry and farmed game as defined in Annex I to Regulation (EC) No 853/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific hygiene rules for food of animal origin (OJ L 139, 30.4.2004, as corrected by OJ L 226, 25.6.2004, p. 22), but not including edible offal as defined in that Annex.

⁽³⁾ The action levels are not applicable for food products containing < 1 % fat.

⁽⁴⁾ The target levels will be set by the end of the year 2008.

⁽⁵⁾ Muscle meat of fish and fishery products as defined in categories (a), (b), (c), (e) and (f) of the list in Article 1 of Council Regulation (EC) No 104/2000 (OJ L 17, 21.1.2000, p. 22. Regulation as amended by the 2003 Act of Accession). The action level applies to crustaceans excluding the brown meat of crab and excluding head and thorax meat of lobster and similar large crustaceans (*Nephropidae* and *Palinuridae*) and to cephalopods without viscera.

⁽⁶⁾ Where fish are intended to be eaten whole, the action level shall apply to the whole fish.

⁽⁷⁾ When the action level is exceeded, it will be in some cases not necessary to perform an investigation as regards the source of contamination as the background level in some areas for some fish species is close to or exceeding the action level. However it is appropriate in these cases where the action level is exceeded to record all information such as sampling period, geographic origin and fish species in view of future measures as regards the presence of dioxins and dioxin-like compounds in fish and fishery products.

⁽⁸⁾ Milk (raw milk, milk for the manufacture of milk-based products and heat treated milk) as defined in Annex I to Regulation (EC) No 853/2004.

⁽⁹⁾ Hen eggs and egg products as defined in Annex I to Regulation (EC) No 853/2004.