Commission Regulation (EU) 2016/1866 of 17 October 2016 amending Annexes II, III and V to Regulation (EC) No 396/2005 of the European Parliament and of the Council as regards maximum residue levels for 3-decen-2-one, acibenzolar-S-methyl and hexachlorobenzene in or on certain products (Text with EEA relevance)

COMMISSION REGULATION (EU) 2016/1866

of 17 October 2016

amending Annexes II, III and V to Regulation (EC) No 396/2005 of the European Parliament and of the Council as regards maximum residue levels for 3-decen-2-one, acibenzolar-S-methyl and hexachlorobenzene in or on certain products

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to 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[(1)], and in particular Article 14(1)(a), Article 16(1)(a), Article 17 and Article 49(2) thereof,

Whereas:

(1) For acibenzolar-S-methyl, maximum residue limits (MRLs) were set in Annex II to Regulation (EC) No 396/2005. For hexachlorobenzene, MRLs were set in Annex II and Part B of Annex III to that Regulation. For 3-decen-2-one, no specific MRLs were set nor was that substance included in Annex IV to that Regulation, so the default value of 0,01 mg/kg laid down in Article 18(1)(b) thereof applies.

(2) In the context of a procedure for the authorisation of the use of a plant protection product containing the active substance 3-decen-2-one on potatoes, an application was submitted in accordance with Article 6(1) of Regulation (EC) No 396/2005 for the inclusion of that active substance in Annex IV to Regulation (EC) No 396/2005.

(3) In accordance with Article 8 of Regulation (EC) No 396/2005, that application was evaluated by the Member State concerned and the evaluation report was forwarded to the Commission.

(4) The European Food Safety Authority, hereinafter ‘the Authority’, assessed the application and the evaluation report, examining in particular the risks to the consumer and, where relevant, to animals and issued a conclusion on the proposal for inclusion of the active substance in Annex IV to Regulation (EC) No 396/2005[(2)]. It forwarded that conclusion to the Commission and the Member States and made it available to the public.

(5) In its conclusion, the Authority concluded that the available information is insufficient to establish on whether use of 3-decen-2-one as an active substance in plant protection

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products will have no immediate or delayed harmful effects on human health, including that of vulnerable groups, through dietary intakes. It is therefore not appropriate to include the substance in Annex IV to Regulation (EC) No 396/2005 and the MRLs should be set at the relevant limit of determination (LOD). The Commission consulted the European Union reference laboratories on the appropriate LODs.

(6) For acibenzolar-S-methyl, the Authority submitted a conclusion on the peer review of the pesticide risk assessment of the active substance[3]. In that framework, it recommended increasing the MRL for the group of pome fruits to 0,2 mg/kg. Based on the new toxicological reference values, it recommended lowering the existing MRL for tomatoes to 0,3 mg/kg.

(7) For hexachlorobenzene, all existing authorisations for plant protection products containing that active substance have been revoked. In accordance with Article 17 of Regulation (EC) No 396/2005 in conjunction with Article 14(1)(a) thereof the MRLs set out for those active substances in Annexes II and III should therefore be deleted. Recent monitoring data show that residues occur on pumpkin seeds at a level higher than the LOD[4]. Residues of hexachlorobenzene are resulting from environmental contamination in soil, due to the use of this persistent compound in the past. The existing MRL of 0,05 mg/kg for pumpkin seeds adequately addresses the occurrence of hexachlorobenzene in that product. The MRL will be reviewed; the review will take into account the information available within 10 years from the publication of this Regulation. For products of animal origin, monitoring data show that lower values than the LOD should be set in muscle and milk from all species.

(8) Based on the conclusions of the Authority and taking into account the factors relevant to the matter under consideration, the appropriate modifications to the MRLs fulfil the requirements of Article 14(2) of Regulation (EC) No 396/2005.

(9) Through the World Trade Organisation, the trading partners of the Union were consulted on the new MRLs and their comments have been taken into account.

(10) Regulation (EC) No 396/2005 should therefore be amended accordingly.

(11) In order to allow for the normal marketing, processing and consumption of products, this Regulation should provide for a transitional arrangement for products which have been produced before the modification of the MRLs made by this Regulation and for which information shows that a high level of consumer protection is maintained.

(12) A reasonable period should be allowed to elapse before the modified MRLs become applicable in order to permit Member States, third countries and food business operators to prepare themselves to meet the new requirements which will result from the modification of the MRLs.

(13) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS REGULATION:

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Article 1

Annexes II, III and V to Regulation (EC) No 396/2005 are amended in accordance with the Annex to this Regulation.

Article 2

Regulation (EC) No 396/2005 as it stood before being amended by this Regulation shall continue to apply to products which were produced before 10 May 2017, except for acibenzolar-S-methyl in tomatoes.

Article 3

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

It shall apply from 10 May 2017.

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

Done at Brussels, 17 October 2016.

For the Commission

The President

Jean-Claude JUNCKER

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ANNEX

Annexes II, III and V to Regulation (EC) No 396/2005 are amended as follows:

(1) In Annex II, the columns for acibenzolar-S-methyl and hexachlorobenzene are replaced by the following:

PESTICIDE RESIDUES AND MAXIMUM RESIDUE LEVELS (MG/KG)

Code number	**Groups and examples of individual products to which the MRLs apply[b]**	**Acibenzolar-S- methyl (sum of acibenzolar-S- methyl and acibenzolar acid (free and conjugated), expressed as acibenzolar- S-methyl)**	**Hexachlorobenzene (F)**
(1)	(2)	(3)	(4)
0100000	**FRUITS, FRESH or FROZEN; TREE NUTS**		0,01[a]
0110000	**Citrus fruits**	0,01[a]	
0110010	Grapefruits		
0110020	Oranges		
0110030	Lemons		
0110040	Limes		
0110050	Mandarins		
0110990	Others		
0120000	**Tree nuts**		
0120010	Almonds	0,01[a]	
0120020	Brazil nuts	0,01[a]	
0120030	Cashew nuts	0,01[a]	
0120040	Chestnuts	0,01[a]	
0120050	Coconuts	0,01[a]	
0120060	Hazelnuts/cobnuts	0,1	
0120070	Macadamias	0,01[a]	
0120080	Pecans	0,01[a]	
0120090	Pine nut kernels	0,01[a]	
0120100	Pistachios	0,01[a]	

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0120110	Walnuts	0,01[a]	
0120990	Others	0,01[a]	
0130000	**Pome fruits**	**0,2**	
0130010	Apples		
0130020	Pears		
0130030	Quinces		
0130040	Medlars		
0130050	Loquats/Japanese medlars		
0130990	Others		
0140000	**Stone fruits**		
0140010	Apricots	0,2	
0140020	Cherries (sweet)	0,01[a]	
0140030	Peaches	0,2	
0140040	Plums	0,01[a]	
0140990	Others	0,01[a]	
0150000	**Berries and small fruits**	0,01[a]	
0151000	(a) *grapes*		
0151010	Table grapes		
0151020	Wine grapes		
0152000	(b) *strawberries*		
0153000	(c) *cane fruits*		
0153010	Blackberries		
0153020	Dewberries		
0153030	Raspberries (red and yellow)		
0153990	Others		
0154000	(d) *other small fruits and berries*		
0154010	Blueberries		
0154020	Cranberries		