Commission Regulation (EU) 2016/1822 of 13 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 aclonifen, deltamethrin, fluazinam, methomyl, sulcotrione and thiodicarb in or on certain products (Text with EEA relevance)

COMMISSION REGULATION (EU) 2016/1822

of 13 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 aclonifen, deltamethrin, fluazinam, methomyl, sulcotrione and thiodicarb 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 18(1)(b) and Article 49(2) thereof,

Whereas:

(1) For aclonifen, fluazinam and sulcotrione, maximum residue levels (MRLs) were set in Part A of Annex III to Regulation (EC) No 396/2005. For deltamethrin, methomyl and thiodicarb, maximum residue levels (MRLs) were set in Annex II and Part B of Annex III to Regulation (EC) No 396/2005.

(2) For aclonifen, the European Food Safety Authority, hereinafter 'the Authority', submitted a reasoned opinion on the existing MRLs in accordance with Article 12(1) of Regulation (EC) No 396/2005[(2)]. It recommended lowering the MRLs for potatoes, carrots, celeriac, garlic, onions, shallots, tomatoes, sweet corn, celery leaves, parsley, beans (fresh, without pods), peas (fresh, without pods), lentils (fresh), celery, fennel, globe artichokes, lupins (dry), sunflower seed, maize grain, sorghum grain, swine (meat, fat, liver and kidney), bovine (meat, fat, liver and kidney), sheep (meat, fat, liver and kidney), goat (meat, fat, liver and kidney) and milk (cattle, sheep and goat). For other products it recommended keeping or raising the existing MRL. It concluded that concerning the MRLs for peppers, herbal infusions (dried, flowers and leaves), spices (seeds, fruits and berries) some information was not available and that further consideration by risk managers was required. As there is no risk for consumers, the MRLs for those products should be set in Annex II to Regulation (EC) No 396/2005 at the existing level or the level identified by the Authority. These MRLs will be reviewed;

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the review will take into account the information available within two years from the publication of this Regulation.

(3) For deltamethrin, the Authority submitted a reasoned opinion on the existing MRLs in accordance with Article 12(1) of Regulation (EC) No 396/2005[(3)]. It identified concerning the current MRLs for tomatoes, melons, watermelons, Chinese cabbage, kale, scarole, spinach and similar leaves, beans (dry), rice grain and wheat grain a risk for consumers. It is therefore appropriate to lower these MRLs. It concluded that concerning the MRLs for citrus fruits, almonds, brazil nuts, cashew nuts, chestnuts, coconuts, hazelnuts, macadamia, pecans, pine nuts, pistachios, walnuts, apples, pears, quinces, medlar, loquat, apricots, cherries, peaches, plums, table and wine grapes, strawberries, blackberries, dewberries, raspberries, blueberries, cranberries, currants (red, black and white), gooseberries, rose hips, mulberries, azarole, elderberries, table olives, kiwi, potatoes, beetroot, carrots, celeriac, horseradish, Jerusalem artichokes, parsnips, parsley root, radishes, salsify, swedes, turnips, garlic, onions, shallots, spring onions, tomatoes, peppers, aubergines, cucurbits edible peel, melons, pumpkins, watermelons, sweetcorn, flowering brassica, Brussels sprouts, head cabbage, Chinese cabbage, kale, kohlrabi, lamb's lettuce, lettuce, scarole, cress, land cress, rocket (rucola), red mustard, leaves and sprouts of *Brassica* spp., spinach and similar leaves, vine leaves, water cress, witloof, herbs, legume vegetables (fresh), asparagus, globe artichokes, leek, cultivated fungi, beans (dry), lentils (dry), peas (dry), lupins (dry), linseed, poppy seed, sesame seed, sunflower seed, rape seed, mustard seed, cotton seed, pumpkin seeds, safflower, borage, gold of pleasure, hempseed, castor bean, olives for oil production, barley grain, buckwheat grain, maize grain, millet grain, oats grain, rice grain, rye grain, sorghum grain, wheat grain, tea, herbal infusions (dried, flowers, leaves, roots), spices (fruits, berries, roots, rhizome, buds and flower stigma), sugar beet (root), chicory roots, swine (muscle, fat, liver and kidney), bovine (muscle, fat, liver and kidney), sheep (muscle, fat, liver and kidney), goat (muscle, fat, liver and kidney), poultry (muscle, fat and liver), milk (cattle, sheep and goat) and birds' eggs some information was not available and that further consideration by risk managers was required. As there is no risk for consumers, the MRLs for these products should be set in Annex II to Regulation (EC) No 396/2005 at the existing level or the level identified by the Authority. These MRLs will be reviewed; the review will take into account the information available within two years from the publication of this Regulation. The Authority concluded that concerning the MRLs for figs, cardoons, celery and spices (seeds) no information was available, and that further consideration by risk managers was required. The MRLs for these products should be set at the specific limit of determination.

(4) For fluazinam, the Authority submitted a reasoned opinion on the existing MRLs in accordance with Article 12(1) of Regulation (EC) No 396/2005[(4)]. It recommended lowering the existing MRLs for potatoes, onions and shallots. For tomatoes it recommended raising the existing MRL. It concluded that concerning the MRLs for apples, pears, table grapes, wine grapes, blackberries, dewberries, raspberries, dry beans and herbal infusions (dried, roots) some information was not available and that further consideration by risk managers was required. As there is no risk for consumers, the MRLs for these products should be set in Annex II to Regulation (EC) No 396/2005 at

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the existing level or the level identified by the Authority. These MRLs will be reviewed; the review will take into account the information available within two years from the publication of this Regulation.

(5) For methomyl, the Authority submitted a reasoned opinion on the existing MRLs in accordance with Article 12(1) of Regulation (EC) No 396/2005[(5)]. It proposed to change the residue definition and recommended lowering the MRLs for tomatoes, aubergines (egg plants), cucumbers and courgettes. For gherkins it recommended keeping the existing MRL. It identified concerning the MRLs for wine grapes, potatoes, cucumbers, courgettes, melons, pumpkins and watermelons a risk for consumers. It is therefore appropriate to lower these MRLs. The authority concluded that concerning the MRLs for peppers, melons, pumpkins, watermelons, lettuce, spinach, beans (fresh, with pods), peas (fresh, with pods), dry beans, soya bean, cotton seed, maize grain and oats grain some information was not available and that further consideration by risk managers was required. As there is no risk for consumers, the MRLs for these products should be set in Annex II to Regulation (EC) No 396/2005 at the existing level or the level identified by the Authority. These MRLs will be reviewed; the review will take into account the information available within two years from the publication of this Regulation.

(6) For thiodicarb, the Authority[(6)] recommended that it be deleted from the residue definition for methomyl. It is therefore appropriate to include this substance separately in Annex V to Regulation (EC) No 396/2005.

(7) For sulcotrione, the Authority submitted a reasoned opinion on the existing MRLs in accordance with Article 12(1) of Regulation (EC) No 396/2005[(7)]. It proposed two options with regard to the setting of the residue definition. It was considered appropriate to only change the residue definition for animal commodities. For sweet corn, maize grain and sorghum grain, the Authority recommended keeping the existing MRLs. It concluded that concerning the MRLs for salsify, swine (muscle, fat, liver and kidney), bovine (muscle, fat, liver and kidney), sheep (muscle, fat, liver and kidney), goat (muscle, fat, liver and kidney) and milk (cattle, sheep and goat) some information was not available and that further consideration by risk managers was required. As there is no risk for consumers, the MRLs for those products should be set in Annex II to Regulation (EC) No 396/2005 at the existing level or the level identified by the Authority. These MRLs will be reviewed; the review will take into account the information available within two years from the publication of this Regulation.

(8) As regards products on which the use of the plant protection product concerned is not authorised, and for which no import tolerances or Codex maximum residue limits (CXLs) exist, MRLs should be set at the specific limit of determination or the default MRL should apply, as provided for in Article 18(1)(b) of Regulation (EC) No 396/2005.

(9) The Commission consulted the European Union reference laboratories for residues of pesticides as regards the need to adapt certain limits of determination. As regards several substances, those laboratories concluded that for certain commodities technical development requires the setting of specific limits of determination.

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(10) Based on the reasoned opinions 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.

(11) 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.

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

(13) 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 and for which information shows that a high level of consumer protection is maintained.

(14) 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.

(15) 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:

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

As regards the active substances aclonifen, fluazinam and sulcotrione in and on all products, Regulation (EC) No 396/2005 as it stood before being amended by this Regulation shall continue to apply to products which were produced before 7 May 2017.

As regards the active substance deltamethrin in and on all products except tomatoes, melons, watermelons, Chinese cabbage, kale, scarole, spinach and similar leaves, beans (dry), rice grain and wheat grain, Regulation (EC) No 396/2005 as it stood before being amended by this Regulation shall continue to apply to products which were produced before 7 May 2017.

As regards the active substance methomyl in and on all products except wine grapes, potatoes, cucumbers, courgettes, melons, pumpkins and watermelons, Regulation (EC) No 396/2005 as it stood before being amended by this Regulation shall continue to apply to products which were produced before 7 May 2017.

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 7 May 2017.

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

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Done at Brussels, 13 October 2016.

For the Commission

The President

Jean-Claude JUNCKER