Commission Regulation (EU) 2016/75 of 21 January 2016 amending Annex III to Regulation (EC) No 396/2005 of the European Parliament and of the Council as regards maximum residue levels for fosetyl in or on certain products (Text with EEA relevance)

COMMISSION REGULATION (EU) 2016/75

of 21 January 2016

amending Annex III to Regulation (EC) No 396/2005 of the European Parliament and of the Council as regards maximum residue levels for fosetyl 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) and Article 16(1)(a) thereof,

Whereas:

(1) For fosetyl, maximum residue levels (MRLs) were set in Part A of Annex III to Regulation (EC) No 396/2005.

(2) The residue definition for monitoring applicable to fosetyl comprises the parent compound fosetyl, the degradation product phosphorous acid and their salts. Salts of phosphorous acid are named phosphonates.

(3) Commission Regulation (EU) No 991/2014[(2)] amended Annex III to Regulation (EC) No 396/2005, setting temporary MRLs for fosetyl to avoid significant market disruptions in the trade of certain products. Those temporary MRLs were based on the available monitoring data and on a statement[(3)] of the European Food Safety Authority, hereinafter 'the Authority', in which it concluded that the proposed temporary MRLs are expected to sufficiently protect consumers.

(4) Some temporary MRLs set by Regulation (EU) No 991/2014 apply only until 31 December 2015, after which the previous MRL of 2 mg/kg corresponding to the limit of determination should be applicable, as it was expected that by then the measures foreseen to prevent the occurrence of phosphonate residues in relevant crops in future growing seasons would take effect. However, the Commission received information from food business operators showing that for certain products belonging to the group of tree nuts, the period provided was insufficient for those measures to take effect. Monitoring data indicate the continued presence of phosphonates in or on those products at levels higher than 2 mg/kg.

Changes to legislation: *There are outstanding changes not yet made to Commission Regulation (EU) 2016/75. 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*

(5) Trading partners of the Union informed the Commission of ongoing efforts and timetables to generate supervised residue trial data with a view to submitting an application concerning MRLs for products belonging to the group of tree nuts according to Article 6(2) and (4) of Regulation (EC) No 396/2005.

(6) To avoid significant market disruptions in the trade of the concerned products belonging to the group of tree nuts and as there is no risk for consumers identified from the current scientific data, it is appropriate to change the end date of applicability of those temporary MRLs for fosetyl. Those temporary MRLs should apply until an application for MRLs according to Article 6(2) and (4) of Regulation (EC) No 396/2005 has been evaluated and decided upon. Taking into account the information received on ongoing supervised residue trials and the planned submission of such an application, the entry into force of a decision on that application is expected not later than 1 March 2019.

(7) Based on the statement of the Authority and taking into account the factors relevant to the matter under consideration, the appropriate modification to the MRL fulfils the requirements of Article 14(2) of Regulation (EC) No 396/2005.

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

(9) MRLs for several products, including certain products belonging to the group of tree nuts, were modified by Regulation (EU) No 991/2014, with 31 December 2015 as the end date of applicability of those temporary MRLs. For those products belonging to the group of tree nuts, this Regulation sets MRLs at the same level as provided for in Regulation (EU) No 991/2014 for an additional period. In the interest of legal certainty, this Regulation should therefore apply from 1 January 2016.

(10) 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

Annex III to Regulation (EC) No 396/2005 is amended in accordance with the Annex to this Regulation.

Article 2

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

It shall apply from 1 January 2016.

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

***Changes to legislation:** There are outstanding changes not yet made to Commission Regulation (EU) 2016/75. 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*

Done at Brussels, 21 January 2016.

For the Commission

The President

Jean-Claude JUNCKER

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ANNEX

In part A of Annex III to Regulation (EC) No 396/2005, the column for fosetyl is 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]**	**Fosetyl-Al (sum of fosetyl, phosphonic acid and their salts, expressed as fosetyl)**
(1)	(2)	(3)
0100000	**FRUITS, FRESH or FROZEN; TREE NUTS**	
0110000	**Citrus fruits**	75
0110010	Grapefruits	
0110020	Oranges	
0110030	Lemons	
0110040	Limes	
0110050	Mandarins	
0110990	Others	
0120000	**Tree nuts**	
0120010	Almonds	**75 (+)**
0120020	Brazil nuts	2[a]
0120030	Cashew nuts	**75 (+)**
0120040	Chestnuts	2[a]
0120050	Coconuts	2[a]
0120060	Hazelnuts/cobnuts	**75 (+)**
0120070	Macadamias	**75 (+)**

a Indicates lower limit of analytical determination

b For the complete list of products of plant and animal origin to which MRLs apply, reference should be made to Annex I.

Fosetyl-Al (sum of fosetyl, phosphonic acid and their salts, expressed as fosetyl)

(+) MRL applicable until 1 March 2019, after that date 2 (*) will be applicable unless modified by a Regulation.

0120010 Almonds
0120030 Cashew nuts
0120060 Hazelnuts/cobnuts
0120070 Macadamias
0120100 Pistachios
0120110 Walnuts

(+) The applicable maximum residue level for horseradish (Armoracia rusticana) in the spice group (code 0840040) is the one set for horseradish (Armoracia rusticana) in the Vegetables category, root and tuber vegetables group (code 0213040) taking into account changes in the levels by processing (drying) according to Art. 20 (1) of Regulation (EC) No 396/2005.

0840040 Horseradish

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0120080	Pecans	2[a]
0120090	Pine nut kernels	2[a]
0120100	Pistachios	**75 (+)**
0120110	Walnuts	**75 (+)**
0120990	Others	2[a]
0130000	**Pome fruits**	75
0130010	Apples	
0130020	Pears	
0130030	Quinces	
0130040	Medlars	
0130050	Loquats/Japanese medlars	
0130990	Others	
0140000	**Stone fruits**	2[a]
0140010	Apricots	
0140020	Cherries (sweet)	
0140030	Peaches	
0140040	Plums	
0140990	Others	
0150000	**Berries and small fruits**	
0151000	(a) *grapes*	100
0151010	Table grapes	
0151020	Wine grapes	
0152000	(b) *strawberries*	75

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0840040 Horseradish