# Commission Regulation (EU) No 991/2014 of 19 September 2014 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) No 991/2014

of 19 September 2014

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) The Commission received information from Member States and business operators showing the presence of phosphonates in or on certain products leading to higher residues than the MRL of 2 mg/kg laid down in Regulation (EC) No 396/2005 for those products, corresponding to the limit of determination.

(4) The Commission collected monitoring data in 2014 to investigate the presence of phosphonates in food. Those data were generated by food business operators and showed that phosphonates are present at levels that vary depending on the source and product, but frequently exceed the MRL set at the limit of determination of 2 mg/kg. Further data analysis indicated that the vast majority of non-compliant samples contain residues of phosphorous acid and its salts in excess of the limit of determination while residues of fosetyl and its salts remain below the limit of determination.

(5) Although phosphonates have not been included in Annex I to Regulation (EC) No 2003/2003 of the European Parliament and of the Council[(2)] by virtue of Article 14 of that Regulation, they could be contained in fertilisers authorised at national level, notably certain fertiliser products applied to the leaves of plants (foliar fertilisers). Given the lack of relevant authorisations for plant protection products containing fosetyl

**Changes to legislation:** *There are outstanding changes not yet made to Commission Regulation (EU) No 991/2014. 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*

both in the Union and in third countries that are important exporters of the concerned food products into the Union, the scarcity of detectable residues for fosetyl and its salts, and the use of phosphonates as ingredient in foliar fertiliser products, it can be reasonably assumed that residues are a consequence of the application of foliar fertiliser products containing phosphonates.

(6) The Commission asked the European Food Safety Authority, hereinafter 'the Authority', to give an opinion on public health risks of phosphonate residues in or on certain products. Given the urgency the Authority issued a statement, referring to several remaining uncertainties, rather than a reasoned opinion[(3)]. It forwarded that statement to the Commission and the Member States and made it available to the public.

(7) The Authority concluded in its statement that the proposed temporary MRLs are expected to sufficiently protect consumers. The lifetime exposure to phosphonate residues via consumption of all food products that may contain them did not show that there is a risk that the acceptable daily intake (ADI) is exceeded. The Authority did not perform an acute consumer exposure assessment due to the low acute toxicity of phosphonate. The Authority pointed out that its statement is affected by uncertainties and proposed to change the residue definition.

(8) To avoid significant market disruptions in the trade of the concerned products and as there is no risk for consumers identified from the current scientific data, it is appropriate to set temporary MRLs for fosetyl, based on the available monitoring data and on the statement of the Authority. Those temporary MRLs should apply only until measures to prevent the occurrence of phosphonate residues in relevant crops in future growing seasons take effect.

(9) 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.

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

(11) 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*

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*.

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

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Done at Brussels, 19 September 2014.

*For the Commission*

*The President*

José Manuel BARROSO