# Commission Regulation (EU) No 772/2013 of 8 August 2013 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 diphenylamine in or on certain products (Text with EEA relevance)

## COMMISSION REGULATION (EU) No 772/2013

## of 8 August 2013

## 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 diphenylamine 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 Articles 14(1)(a) and 18(1)(b) thereof,

Whereas:

(1) For diphenylamine maximum residue levels (MRLs) were set in Annex II and Part B of Annex III to Regulation (EC) No 396/2005. Diphenylamine was the subject of Commission Decision 2009/859/EC of 30 November 2009 concerning the non-inclusion of diphenylamine in Annex I to Council Directive 91/414/EEC and the withdrawal of authorisations for plant protection products containing that substance[(2)] and it is the subject of Commission Implementing Regulation (EU) No 578/2012 of 29 June 2012 concerning the non-approval of the active substance diphenylamine, in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market[(3)].

(2) The European Food Safety Authority ('the Authority') gave a reasoned opinion on the existing MRLs for diphenylamine pursuant to Article 12(1) of Regulation (EC) No 396/2005 on 22 August 2011[(4)], examining in particular the risks to the consumer. That opinion has been forwarded to the Commission and the Member States and was made available to the public.

(3) In that opinion the Authority recommends neither the inclusion of diphenylamine in Annex IV to Regulation (EC) No 396/2005 nor the inclusion of the CXLs in Annex II to that Regulation.

(4) All existing authorisations for plant protection products containing diphenylamine have been revoked. The MRLs set out for this active substance in Annexes II and III should therefore be deleted, except for apples and pears.

**Changes to legislation:** *There are outstanding changes not yet made to Commission Regulation (EU) No 772/2013. 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) As regards diphenylamine in apples and pears, Member States, third countries and food business operators informed the Commission of an unavoidable cross-contamination that affects untreated apples and pears and which is due to the presence of residues of diphenylamine in storage facilities, in particular machinery, surfaces and containers with particular regard to bins, and that is technically not feasible to completely remove at this stage.

(6) Based on the monitoring data received on the cross-contamination, it is appropriate to set a temporary MRL as low as possible, given the consumer concerns raised by diphenylamine, and that would still allow the normal marketing and trade of untreated apples and pears.

(7) Although no final consumer risk assessment can be performed at this stage due to several data gaps identified by the Authority on the diphenylamine dossier, it can be reasonably expected that a temporary MRL of 0,1 mg/kg, which is 50 times lower than the current MRL of 5 mg/kg, should not pose any unacceptable risk to consumers.

(8) Pursuant to Article 16(2) of Regulation (EC) No 396/2005, the Commission will review the situation within two years from the date of entry into force of the present Regulation based on any new monitoring data and other new elements that would become available.

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

(10) 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.

(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) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health and neither the European Parliament nor the Council has opposed them,

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*

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, however, apply from 2 March 2014.

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) No 772/2013. 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, 8 August 2013.

*For the Commission*

*The President*

José Manuel BARROSO

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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 column for diphenylamine is deleted;

(2) in Part B of Annex III, the column for diphenylamine is deleted;

(3) in Part A of Annex III, the following column is added:

PESTICIDE RESIDUES AND MAXIMUM RESIDUE LEVELS (MG/KG)

| **Code number** | **Groups and examples of individual products to which the MRLs apply**[a] | **Diphenylamine** |
|---|---|---|
| (1) | (2) | (3) |
| 0100000 | 1. **FRUIT FRESH OR FROZEN; NUTS** | |
| 0110000 | (i) **Citrus fruit** | [b] |
| 0110010 | Grapefruit (Shaddocks, pomelos, sweeties, tangelo (except mineola), ugli and other hybrids) | |
| 0110020 | Oranges (Bergamot, bitter orange, chinotto and other hybrids) | |
| 0110030 | Lemons (Citron, lemon) | |
| 0110040 | Limes | |
| 0110050 | Mandarins (Clementine, tangerine, mineola and other hybrids) | |
| 0110990 | Others | |
| 0120000 | (ii) **Tree nuts (shelled or unshelled)** | [b] |

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

**b** Pesticide-code combination for which the MRL as set in Annex V applies.

(*) Indicates lower limit of analytical determination

**Diphenylamine**
(+) Temporary MRL to be reviewed by 2 September 2015

| | |
|---|---|
| 0130010 | Apples (Crab apple) |
| 0130020 | Pears (Oriental pear) |

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| | | |
|---|---|---|
| 0120010 | Almonds | |
| 0120020 | Brazil nuts | |
| 0120030 | Cashew nuts | |
| 0120040 | Chestnuts | |
| 0120050 | Coconuts | |
| 0120060 | Hazelnuts (Filbert) | |
| 0120070 | Macadamia | |
| 0120080 | Pecans | |
| 0120090 | Pine nuts | |
| 0120100 | Pistachios | |
| 0120110 | Walnuts | |
| 0120990 | Others | |
| 0130000 | (iii) **Pome fruit** | |
| 0130010 | Apples (Crab apple) | **0,1 (+)** |
| 0130020 | Pears (Oriental pear) | **0,1 (+)** |
| 0130030 | Quinces | [b] |
| 0130040 | Medlar | [b] |
| 0130050 | Loquat | [b] |
| 0130990 | Others | [b] |
| 0140000 | (iv) **Stone fruit** | [b] |
| 0140010 | Apricots | |
| 0140020 | Cherries (sweet cherries, sour cherries) | |
| 0140030 | Peaches (Nectarines and similar hybrids) | |
| 0140040 | Plums (Damson, greengage, mirabelle, sloe) | |

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

**b** Pesticide-code combination for which the MRL as set in Annex V applies.

(*) Indicates lower limit of analytical determination

**Diphenylamine**
(+) Temporary MRL to be reviewed by 2 September 2015

| | |
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