Commission Regulation (EU) No 473/2012 of 4 June 2012 amending Annex III to Regulation (EC) No 396/2005 of the European Parliament and of the Council as regards maximum residue levels for spinetoram (XDE-175) in or on certain products (Text with EEA relevance)

COMMISSION REGULATION (EU) No 473/2012

of 4 June 2012

amending Annex III to Regulation (EC) No 396/2005 of the European Parliament and of the Council as regards maximum residue levels for spinetoram (XDE-175) 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 18(4) thereof,

Whereas:

(1) For spinetoram (XDE-175) MRLs are set in Part A of Annex III to Regulation (EC) No 396/2005.

(2) In accordance with Article 53 of Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC[(2)], France notified on 11 May 2012 to the Commission the temporary authorisation of plant protection products containing the active substance spinetoram (XDE-175), due to an unexpected outbreak of *Drosophila suzukii*, a danger that was unforeseeable and could not be contained by any other reasonable means. Consequently, France has also notified to the other Member States, the Commission and the Authority in accordance with Article 18(4) of Regulation (EC) No 396/2005 that it has authorised the placing on the market in its territory of cherries, raspberries and blueberries containing pesticide residues higher than the MRLs. Currently, those MRLs are established at the limit of determination in Annex III to Regulation (EC) No 396/2005.

(3) France submitted to the Commission an appropriate consumer risk assesment and proposed temporary MRLs on that basis.

(4) The European Food Safety Authority, hereinafter "the Authority", assessed the data provided and issued a statement[(3)] on the safety of the proposed temporary MRLs.

(5) The Authority concluded that the emergency use of spinetoram (XDE-175) on cherries, raspberries and blueberries is not likely to result in a consumer exposure exceeding

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the toxicological reference value and therefore is not expected to pose a public health concern.

(6) France did not report details of supervised field trials, nor complete a quality assessment of such trials. The Authority had to base its statement on the assumption that the supervised field trials are valid and confirm the proposed temporary MRLs. In order to verify the correctness of the assumption, France should update the evaluation report as soon as possible.

(7) Based on the statement 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 18(4) of Regulation (EC) No 396/2005.

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

(9) Given that the emergency uses of plant protection products concerning spinetoram are already authorized by France and the resulting urgent need to ensure a high level of consumer protection, it is appropriate to provide for the MRLs by applying the procedure referred to in Article 45(5) of Regulation (EC) No 396/2005.

(10) 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 next 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.

Done at Brussels, 4 June 2012.

For the Commission

The President

José Manuel BARROSO

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ANNEX

In Part A of Annex III to Regulation (EC) No 396/2005, the column for spinetoram (XDE-175) 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**[a]	**Spinetoram (XDE-175)**
(1)	(2)	(3)
0100000	1. **FRUIT FRESH OR FROZEN; NUTS**	
0110000	(i) **Citrus fruit**	0,2
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)**	0,05[b]
0120010	Almonds	
0120020	Brazil nuts	

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

b Indicates lower limit of analytical determination

Spinetoram (XDE-175)

(+) MRL applicable until 31 December 2014, after that date 0,05[b] will be applicable unless modified by a Regulation. Detailed information on supervised field trials to be submitted to the Authority and the European Commission by 30 June 2013 at the latest. Reassessment of data may lead to modification of the MRL.

0140020	**Cherries (sweet cherries, sour cherries)**
0153030	**Raspberries (Wineberries, arctic bramble/raspberry, (Rubus arcticus), nectar raspberries (Rubus arcticus x idaeus))**
0154010	**Blueberries (Bilberries)**

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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**	0,2
0130010	Apples (Crab apple)	
0130020	Pears (Oriental pear)	
0130030	Quinces	
0130040	Medlar	
0130050	Loquat	
0130990	Others	
0140000	(iv) **Stone fruit**	
0140010	Apricots	0,2
0140020	Cherries (sweet cherries, sour cherries)	**0,2 (+)**
0140030	Peaches (Nectarines and similar hybrids)	0,2
0140040	Plums (Damson, greengage, mirabelle, sloe)	0,05[b]
0140990	Others	0,05[b]

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0140020	**Cherries (sweet cherries, sour cherries)**
0153030	**Raspberries (Wineberries, arctic bramble/raspberry, (Rubus arcticus), nectar raspberries (Rubus arcticus x idaeus))**
0154010	**Blueberries (Bilberries)**

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0150000	(v) **Berries & small fruit**	
0151000	(a) *Table and wine grapes*	0,5
0151010	Table grapes	
0151020	Wine grapes	
0152000	(b) *Strawberries*	0,2
0153000	(c) *Cane fruit*	
0153010	Blackberries	0,05[b]
0153020	Dewberries (Loganberries, boysenberries, and cloudberries)	0,05[b]
0153030	Raspberries (Wineberries, arctic bramble/raspberry, (Rubus arcticus), nectar raspberries (Rubus arcticus x idaeus))	**0,8 (+)**
0153990	Others	0,05[b]
0154000	(d) *Other small fruit & berries*	
0154010	Blueberries (Bilberries)	**0,2 (+)**
0154020	Cranberries (Cowberries (red bilberries))	0,05[b]
0154030	Currants (red, black and white)	0,05[b]
0154040	Gooseberries (Including hybrids with other ribes species)	0,05[b]

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0140020	**Cherries (sweet cherries, sour cherries)**
0153030	**Raspberries (Wineberries, arctic bramble/raspberry, (Rubus arcticus), nectar raspberries (Rubus arcticus x idaeus))**
0154010	**Blueberries (Bilberries)**