



EUROPEAN
COMMISSION

Brussels, **XXX**
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COMMISSION REGULATION (EU) .../...

of **XXX**

**amending Annexes II and III to Regulation (EC) No 396/2005 of the European
Parliament and of the Council as regards maximum residue levels for mercury
compounds in or on certain products**

(Text with EEA relevance)

COMMISSION REGULATION (EU) .../...

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amending Annexes II and III to Regulation (EC) No 396/2005 of the European Parliament and of the Council as regards maximum residue levels for mercury compounds 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/EEC¹, and in particular Article 14(1)(a), Article 16(1)(a) and Article 49(2) thereof,

Whereas:

- (1) For mercury compounds, maximum residue levels (MRLs) were set in Annex II and Part B of Annex III to Regulation (EC) No 396/2005.
- (2) Council Directive 79/117/EEC prohibits the placing on the market and use of plant protection products containing mercury compounds. All authorisations were revoked and consequently all MRLs were set at the relevant limit of determination (LOD).
- (3) Recent monitoring data show that residues occur in several products at levels higher than the LOD. Taking into account the 95th percentile of all the sample results, the following occurrences were reported: tree nuts at 0,02 mg/kg; fresh herbs at 0,03 mg/kg; cultivated fungi at 0,05 mg/kg; wild fungi at 0,50 mg/kg, except for ceps at 0,90 mg/kg; oilseeds at 0,02 mg/kg; cocoa beans at 0,02 mg/kg; spices at 0,02 mg/kg, except ginger, nutmeg, mace and turmeric at 0,05 mg/kg; meat at 0,01 mg/kg, except for duck meat at 0,04 mg/kg and meat of wild game animals at 0,015 mg/kg; animal fat at 0,01 mg/kg; edible offal at 0,02 mg/kg except for offal of wild game animals at 0,025 mg/kg and offal of wild boar at 0,10 mg/kg; milk at 0,01 mg/kg; and honey at 0,01 mg/kg.
- (4) As mercury containing pesticides have been phased out since more than thirty years in the Union, the presence of mercury in food can be considered solely due to environmental contamination. It is therefore appropriate to take into account environmental background levels to enable Member States to take enforcement action under Regulation (EC) No 396/2005 on the basis of realistic MRLs.

¹ OJ L 70, 16.3.2005, p. 1.

- (5) The Scientific Panel on contaminants in the Food Chain (CONTAM Panel) of the European Food Safety Authority, hereinafter 'the Authority', adopted an opinion on mercury and methylmercury in food².
- (6) As mercury compounds occur at low levels in the products listed in recital 3 and taking into account the available consumption data within the Union, the overall contribution to the dietary exposure is considered low and there is no health risk for consumers. The MRLs for those products should be set as temporary in Annex III to Regulation (EC) No 396/2005. Those MRLs will be reviewed; the review will take into account the information available within 10 years from the publication of this Regulation.
- (7) The Commission consulted the European Union reference laboratories for residues of pesticides as regards the need to adapt certain LODs. Those laboratories concluded that for certain products technical development requires the setting of specific limits of determination.
- (8) Based on the opinion 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.
- (9) 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.
- (10) Regulation (EC) No 396/2005 should therefore be amended accordingly.
- (11) 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.
- (12) 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.
- (13) 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 and III to Regulation (EC) No 396/2005 are amended in accordance with the Annex to this Regulation.

Article 2

Regulation (EC) No 396/2005 as it stood before being amended by this Regulation shall continue to apply to products which were produced before [*Office of Publications please insert date 6 months after entry into force of this Regulation*].

² EFSA Panel on Contaminants in the Food Chain (CONTAM); Scientific Opinion on the risk for public health related to the presence of mercury and methylmercury in food. EFSA Journal 2012;10(12):2985. [241 pp.] doi:10.2903/j.efsa.2012.2985.

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 [*Office of Publication: please insert date 6 months after entry into force*].

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

Done at Brussels,

For the Commission
The President
Jean-Claude JUNCKER