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Delegations will find attached document D042179/01.

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[...] (2015) **XXX** draft

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

of **XXX**

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) .../...

of **XXX**

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/EEC¹, 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 991/2014² 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 statement³ 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

¹ OJ L 70, 16.3.2005, p. 1.

² 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 (OJ L 279, 23.9.2014, p. 1).

³ European Food Safety Authority; Statement on the dietary risk assessment for proposed temporary maximum residue levels (t-MRLs) for fosetyl-AI in certain crops. EFSA Journal 2014;12(5):3695, 22 pp.

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.

- (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 Commission 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 Commission 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.

Done at Brussels,

For the Commission
The President
Jean-Claude JUNCKER