



EUROPEAN COMMISSION
HEALTH AND CONSUMERS DIRECTORATE-GENERAL

Directorate E - Safety of the Food Chain
E3 - Chemicals, contaminants, pesticides

Brussels,
SANCO/E3/VW/np

Letter to stakeholders:

Trade problems due to phosphonate residues in certain food products

In early 2014, the European Commission received information from Member States and food business operators showing the presence of phosphonates in or on certain products leading to higher residues than the maximum residue level (MRL) of 2 mg/kg laid down in Regulation (EC) No 396/2005¹ for those products, corresponding to the limit of determination. The MRLs for fosetyl apply to phosphonate residues because phosphorous acid and its salts are included in the residue definition for enforcement of fosetyl.

The Commission collected monitoring data 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 MRLs set at the limit of determination. 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.

To avoid significant market disruptions in the trade of concerned products that have already been treated with phosphonate-containing 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 a statement of EFSA². Those temporary MRLs should apply only until measures to prevent the occurrence of phosphonate residues in relevant crops in future growing seasons take effect. To this end, the Standing Committee on the Food Chain and Animal Health delivered a favourable opinion on a relevant Commission proposal (SANCO/10843/2014) on 13 June 2014. Subject to scrutiny by the Council of the European Union and the European Parliament as well as formal adoption by the Commission, the proposal is expected to be published in the Official Journal of the European Union in the second half of 2014 and enter into force

¹ OJ L 70, 16.3.2005.

² EFSA Journal 2014;12(5):3695.

on the day following that of its publication. Application of the temporary MRLs will be limited until 31 December 2015.

It is the responsibility of food business operators to find solutions to ensure compliance with the MRLs at 2 mg/kg, which will be applicable again from 1 January 2016, in future growing seasons. Discussions are currently ongoing to clarify the most appropriate approach to regulate phosphonate-containing products, as phosphonates are approved as active substances in plant protection products in the EU, but also used in fertiliser products and as biostimulants. However, regardless of the legal status of products containing phosphonates, phosphonate residues fall within the scope of Regulation (EC) No 396/2005 and food placed on the market has to comply with the MRLs set in its Annexes. Stakeholder organisations have an important role to play in ensuring communication to different economic entities along the food chain, to prevent the occurrence of similar issues in the next growing seasons.

According to information from stakeholders, the phosphonate residues in question are a consequence of the intentional use of fertiliser products containing phosphonates. These residues are hence not unavoidable. Notwithstanding the outcome of the discussions on the regulation of phosphonate-containing products and the possibility to generate data that supports the setting of permanent MRLs in accordance with Articles 6 ff. of Regulation (EC) No 396/2005, producers of the concerned food products should consider discontinuing the use of such products and investigate the use of alternative fertilisers that do not lead to non-compliances with the EU MRLs.

In light of the experience gained from this incidence, it is important that all economic entities involved in the production and trade of the concerned food products as well as of phosphonate-containing products marketed as plant protection products, fertilisers or biostimulants are well aware of the applicable legislation and future developments. It is my expectation that such awareness will prevent the occurrence of non-compliances with the applicable MRLs in future growing seasons. I would greatly appreciate if you could distribute the above information to your member organisations, trading partners and other relevant stakeholders. My services remain at your disposal for further information. On this matter, you can contact Mr Volker Wachtler (tel.: +32-2-29-58305) from the SANCO Pesticide Residues sector.

Yours sincerely,



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Head of Unit

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