

COMMISSION DIRECTIVE 2002/23/EC

of 26 February 2002

amending the Annexes to Council Directives 86/362/EEC, 86/363/EEC and 90/642/EEC as regards the fixing of maximum levels for pesticide residues in and on cereals, foodstuffs of animal origin and certain products of plant origin, including fruit and vegetables respectively

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 86/362/EEC of 24 July 1986 on the fixing of maximum levels for pesticide residues in and on cereals⁽¹⁾, as last amended by Commission Directive 2001/57/EC⁽²⁾, and in particular Article 10 thereof,

Having regard to Council Directive 86/363/EEC of 24 July 1986 on the fixing of maximum levels for pesticide residues in and on foodstuffs of animal origin⁽³⁾, as last amended by Directive 2001/57/EC, and in particular Article 10 thereof,

Having regard to Council Directive 90/642/EEC of 27 November 1990 on the fixing of maximum levels for pesticide residues in and on certain products of plant origin, including fruit and vegetables⁽⁴⁾, as last amended by Commission Directive 2002/5/EC⁽⁵⁾, and in particular Article 7 thereof,

Having regard to Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market⁽⁶⁾, as last amended by Commission Directive 2001/103/EC⁽⁷⁾, and in particular Article 4(1)(f) thereof,

Whereas:

- (1) The new active substances flupyrsulfuron-methyl, pymetrozine, azoxystrobin and kresoxim-methyl (the active substances concerned) were included in Annex I to Directive 91/414/EEC by Commission Directives 2001/49/EC⁽⁸⁾, 2001/87/EC⁽⁹⁾, 98/47/EC⁽¹⁰⁾ and 1999/1/EC⁽¹¹⁾, for use, respectively as a herbicide on cereals, insecticide on cereals, fruits, vegetables, pulses, oil seeds and hops, a fungicide without uses specified and a fungicide on cereals, pome fruit and vines.
- (2) The inclusion in Annex I of the active substances concerned was based on the assessment of the information submitted concerning the proposed uses. Information relating to these uses has been submitted by certain Member States in accordance with Article 4(1)(f) of

Directive 91/414/EEC. The information available has been reviewed and is sufficient to allow certain maximum residue levels (MRLs) to be fixed.

- (3) Where no Community MRL or provisional MRL exists, Member States are to establish a national provisional MRL in accordance with Article 4(1)(f) of Directive 91/414/EEC before plant protection products containing these active substances may be authorised.
- (4) With respect to the inclusion in Annex I to Directive 91/414/EEC of the active substances concerned, the related technical and scientific evaluations were finalised in the form of Commission review reports. The reports were finalised on 16 October 1998, 27 April 2001, 22 April 1998, 27 July 2001 in the case of kresoxim-methyl, flupyrsulfuron-methyl, azoxystrobin and pymetrozine, respectively. They fixed the acceptable daily intake (ADI) for kresoxim-methyl at 0,4 mg/kg bw/day, for flupyrsulfuron-methyl at 0,035 mg/kg bw/day, for azoxystrobin at 0,1 mg/kg bw/day and for pymetrozine at 0,03 mg/kg bw/day. The lifetime exposure of consumers of food products treated with the active substances concerned has been assessed and evaluated in accordance with Community procedures and practices, taking account of guidelines published by the World Health Organisation⁽¹²⁾ and the opinion of the Scientific Committee for Plants⁽¹³⁾ on the methodology employed and it is calculated that MRL accordingly proposed will not lead to those ADIs being exceeded.
- (5) No acute toxic effects requiring the setting of an acute reference dose were noted during the evaluations and discussions preceding the inclusion of flupyrsulfuron-methyl, azoxystrobin and kresoxim-methyl in Annex I to Directive 91/414/EEC. The acute reference dose for pymetrozine was established at 0,1 mg/kg bw/day. According to the exposure assessment, the MRLs proposed will not lead to an unacceptable acute exposure of consumers.

⁽¹⁾ OJ L 221, 7.8.1986, p. 37.

⁽²⁾ OJ L 208, 1.8.2001, p. 36.

⁽³⁾ OJ L 221, 7.8.1986, p. 43.

⁽⁴⁾ OJ L 350, 14.12.1990, p. 71.

⁽⁵⁾ OJ L 34, 5.2.2002, p. 7.

⁽⁶⁾ OJ L 230, 19.8.1991, p. 1.

⁽⁷⁾ OJ L 304, 21.11.2001, p. 14.

⁽⁸⁾ OJ L 176, 29.6.2001, p. 61.

⁽⁹⁾ OJ L 276, 19.10.2001, p. 17.

⁽¹⁰⁾ OJ L 191, 7.7.1998, p. 50.

⁽¹¹⁾ OJ L 21, 28.1.1999, p. 21.

⁽¹²⁾ Guidelines for predicting dietary intake of pesticide residues (revised), prepared by the GEMS/Food Programme in collaboration with the Codex Committee on Pesticide Residues, published by the World Health Organisation 1997 (WHO/FSF/FOS/97.7).

⁽¹³⁾ Opinion of the Scientific Committee on Plants regarding questions relating to amending the Annexes to Council Directives 86/362/EEC, 86/363/EEC and 90/642/EEC (Opinion expressed by the Scientific Committee on Plants, 14 July 1998) (http://europa.eu.int/comm/dg24/health/sc/scp/out21_en.html).

(6) In order to ensure that the consumer is adequately protected from exposure to residues in or on products for which no authorisation has been granted, it is prudent to set provisional MRL at the lower limit of analytical determination for all such products covered by Directives 86/362/EEC, 86/363/EEC and 90/642/EEC. The setting at Community level of such provisional MRL does not prevent the Member States from establishing provisional maximum residue levels for flupyrsulfuron-methyl, pymetrozine, azoxystrobin and kresoxim-methyl in accordance with Article 4(1)(f) of Directive 91/414/EEC and Annex VI thereto. It is considered that a period of four years is sufficient to enable most further uses of the active substances concerned. The provisional MRL should then become definitive.

(7) The Community notified the draft Commission Directive to the World Trade Organisation and the comments received have been considered in finalising the Directive. MRLs for specific pesticide/crop combinations used in third countries could be examined by the Commission on the basis of the acceptable data submitted.

(8) Account has been taken of the opinions of the Scientific Committee for Plants, in particular of its advice and recommendations concerning the protection of consumers of food products treated with pesticides.

(9) This Directive is in accordance with the opinion of the Standing Committee on Plant Health,

HAS ADOPTED THIS DIRECTIVE:

Article 1

The following pesticide maximum residue levels are added to part A of Annex II to Directive 86/362/EEC:

Pesticide residue	Maximum level (mg/kg)
Flupyrsulfuron-methyl	0,02 (*) (P) Cereals
Pymetrozine	0,02 (*) (P) Cereals

(*) Indicates lower limit of analytical determination.

(P) Indicates provisional maximum residue level. For those agricultural products listed in Annex II to Directive 86/362/EEC, where the maximum residue levels for flupyrsulfuron-methyl and pymetrozine are indicated as '(P)', this shall mean that they are provisional in accordance with the provisions of Article 4(1)(f) of Directive 91/414/EEC.

By 1 December 2005, provisional maximum residue levels for flupyrsulfuron-methyl and pymetrozine shall cease to be provisional and shall become definitive in the sense of Article 4(1) of Directive 86/362/EEC.

Article 2

The following pesticide residues are added to part B of Annex II to Directive 86/363/EEC:

Pesticide residue	Maximum level (mg/kg)		
	Of meat, including fat, preparations of meat, offals and animal fats as listed in Annex I within CN codes 0201, 0202, 0203, 0204, 0205 00 00, 0206, 0207, ex 0208, 0209 00, 0210, 1601 00 and 1602,	For milk and milk products listed in Annex I within CN codes 0401, 0402, 0405 00 and 0406	Of shelled fresh eggs, for bird's eggs and egg yolks listed in Annex I within CN codes 0407 00 and 0408
Pymetrozine	0,01 (*) (P)	0,01 (*) (P)	0,01 (*) (P)

(*) Indicates lower limit of analytical determination.

(P) Indicates provisional maximum residue level. For those agricultural products listed in Annex II to Directive 86/363/EEC, where the maximum residue levels for pymetrozine are indicated as '(P)', this shall mean that they are provisional in accordance with the provisions of Article 4(1)(f) of Directive 91/414/EEC.

By 1 December 2005, provisional maximum residue levels for pymetrozine shall cease to be provisional and shall become definitive in the sense of Article 4(1) of Directive 86/363/EEC.

Article 3

The maximum pesticide residue levels for flupyrsulfuron-methyl and pymetrozine in the Annex to this Directive shall be added to Annex II to Directive 90/642/EEC. The maximum pesticide residue levels for azoxystrobin in the Annex to this Directive shall replace those in Annex II to Directive 90/642/EEC.

Article 4

The provisional maximum pesticide residue levels for kresoxim-methyl in Annex II to Directive 90/642/EEC shall be modified to 0,2 mg/kg ^(p) for strawberries. ^(p) indicates provisional maximum residue level. For kresoxim-methyl provisional MRLs shall become definitive with effect of 19 October 2004.

Article 5

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 31 August 2002 at the latest. They shall forthwith inform the Commission thereof.
2. They shall apply these provisions as of 1 September 2002.
3. When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

Article 6

This Directive shall enter into force on the 20th day following its publication in the *Official Journal of the European Communities*.

This Directive is addressed to the Member States.

Done at Brussels, 26 February 2002.

For the Commission

David BYRNE

Member of the Commission

ANNEX

Groups and examples of individual products to which the MRLs apply	Pesticide residues and maximum residue levels (mg/kg)		
	Flupyrsulfuron-methyl	Azoxystrobin	Pymetrozine
1. Fruits, fresh, dried or uncooked, preserved by freezing, not containing added sugar; nuts	0,02 (p) (*)		
(i) CITRUS FRUIT Grapefruit Lemons Limes Mandarins (including clementines and other hybrids) Oranges Pomelos Others		1 (p)	0,3 (p)
(ii) TREE NUTS (shelled or unshelled) Almonds Brazil nuts Cashew nuts Chestnuts Coconuts Hazelnuts Macadamia Pecans Pine nuts Pistachios Walnuts Others		0,1 (p) (*)	0,02 (p) (*)
(iii) POME FRUIT Apples Pears Quinces Others		0,05 (p) (*)	0,02 (p) (*)
(iv) STONE FRUIT Apricots Cherries Peaches (including nectarines and similar hybrids) Plums Others		0,05 (p) (*)	0,05 (p) 0,05 (p) 0,02 (p) (*)
(v) BERRIES AND SMALL FRUIT (a) Table and wine grapes Table grapes Wine grapes (b) Strawberries (other than wild) (c) Cane fruit (other than wild) Blackberries Dewberries Loganberries Raspberries Others		2 2 (p) 0,05 (p) (*)	0,02 (p) (*)

Groups and examples of individual products to which the MRLs apply	Pesticide residues and maximum residue levels (mg/kg)		
	Flupyrsulfuron-methyl	Azoxystrobin	Pymetrozine
(d) Other small fruit and berries (other than wild) Bilberries Cranberries Currants (red, black and white) Gooseberries Others		0,05 (P) (*)	
(e) Wild berries and wild fruit		0,05 (P) (*)	
(vi) MISCELLANEOUS			0,02 (P) (*)
Avocados			
Bananas		2	
Dates			
Figs			
Kiwi			
Kumquats			
Litchis			
Mangoes			
Olives			
Passion fruit			
Pineapples			
Pomegranate			
Others		0,05 (P) (*)	
2. Vegetables, fresh or uncooked, frozen or dry	0,02 (P) (*)		
(i) ROOT AND TUBER VEGETABLES			0,02 (P) (*)
Beetroot			
Carrots		0,2 (P)	
Celeriac			
Horseradish		0,2 (P)	
Jerusalem artichokes			
Parsnips		0,2 (P)	
Parsley root		0,2 (P)	
Radishes			
Salsify		0,2 (P)	
Sweet potatoes			
Swedes			
Turnips			
Yam			
Others		0,05 (P) (*)	
(ii) BULB VEGETABLES		0,05 (P) (*)	0,02 (P) (*)
Garlic			
Onions			
Shallots			
Spring onions			
Others			
(iii) FRUITING VEGETABLES			
(a) Solanacea			
Tomatoes		2 (P)	0,5 (P)
Peppers		2 (P)	1 (P)
Aubergines		2 (P)	0,5 (P)
Others		0,05 (P) (*)	0,02 (P) (*)

Groups and examples of individual products to which the MRLs apply	Pesticide residues and maximum residue levels (mg/kg)		
	Flupyrsulfuron-methyl	Azoxystrobin	Pymetrozine
(b) Cucurbits — edible peel Cucumbers Gherkins Courgettes Others		1 (P)	0,5 (P)
(c) Cucurbits — inedible peel Melons Squashes Watermelons Others		0,5 (P)	0,2 (P)
(d) Sweetcorn		0,05 (P) (*)	0,02 (P) (*)
(iv) BRASSICA VEGETABLES		0,05 (P) (*)	
(a) Flowering brassica Broccoli Cauliflower Others			0,02 (P) (*)
(b) Head brassica Brussels sprouts Head cabbage Others			0,05 (P) 0,02 (P) (*)
(c) Leafy brassica Chinese cabbage Kale Others			0,02 (P) (*)
(d) Kohlrabi			0,02 (P) (*)
(v) LEAF VEGETABLES AND FRESH HERBS			
(a) Lettuce and similar Cress Lamb's lettuce Lettuce Scarole Others		3 (P)	1 (P)
(b) Spinach and similar Spinach Beet leaves (chard) Others		0,05 (P) (*)	0,02 (P) (*)
(c) Water cress		0,05 (P) (*)	0,02 (P) (*)
(d) Witloof		0,2 (P)	0,02 (P) (*)
(e) Herbs Chervil Chives Parsley Celery leaves Others		0,05 (P) (*)	1 (P)
(vi) LEGUME VEGETABLES (fresh) Beans (with pods) Beans (without pods) Peas (with pods)		1 (P) 0,5 (P)	0,02 (P) (*)

Groups and examples of individual products to which the MRLs apply	Pesticide residues and maximum residue levels (mg/kg)		
	Flupyr-sulfuron-methyl	Azoxystrobin	Pymetrozine
Peas (without pods)		0,2 (P)	
Others		0,05 (P) (*)	
(vii) STEM VEGETABLES (fresh)			0,02 (P) (*)
Asparagus			
Cardoons			
Celery		5 (P)	
Fennel			
Globe artichokes		1 (P)	
Leek		0,1 (P)	
Rhubarb			
Others		0,05 (P) (*)	
(viii) FUNGI		0,05 (P) (*)	0,02 (P) (*)
(a) Cultivated mushrooms			
(b) Wild mushrooms			
3. Pulses	0,02 (P) (*)	0,1 (P)	0,02 (P) (*)
Beans			
Lentils			
Peas			
Others			
4. Oils seeds	0,05 (P) (*)	0,05 (P) (*)	
Linseed			
Peanuts			
Poppy seed			
Sesame seed			
Sunflower seed			
Rapeseed			
Soya bean			
Mustard seed			
Cotton seed			0,05 (P)
Others			0,02 (P) (*)
5. Potatoes	0,02 (P) (*)	0,05 (P) (*)	0,02 (P) (*)
Early potatoes			
Ware potatoes			
6. Tea (leaves and stems, dried, fermented or otherwise, of <i>Camellia sinensis</i>)	0,05 (P) (*)	0,1 (P) (*)	0,1 (P) (*)
7. Hops (dried), including hop pellets and unconcentrated powder	0,05 (P) (*)	20 (P)	5 (P)

(P) Indicates provisional maximum residue level. For those agricultural products listed in Annex II to Directive 90/642/EEC where the maximum residue levels for flupyr-sulfuron-methyl, pymetrozine and azoxystrobin are indicated as '(P)', this shall mean that they are provisional in accordance with the provisions of Article 4(1)(f) of Directive 91/414/EEC.

By 1 December 2005, provisional maximum residue levels for flupyr-sulfuron-methyl and pymetrozine shall cease to be provisional and shall become definitive in the sense of Article 3 of Directive 90/624/EEC. For azoxystrobin this shall be 1 August 2003.

(*) Indicates lower limit of analytical determination.