

COMMISSION DIRECTIVE 2004/2/EC**of 9 January 2004****amending Council Directives 86/362/EEC, 86/363/EEC and 90/642/EEC as regards maximum residue levels for fenamiphos****(Text with EEA relevance)**

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 2003/62/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 Commission Directive 2003/60/EC ⁽⁴⁾, 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 products of plant origin, including fruit and vegetables ⁽⁵⁾, as last amended by Commission Directive 2003/69/EC ⁽⁶⁾, and in particular Article 7 thereof,

Whereas:

- (1) In the case of cereals and products of plant origin including fruit and vegetables, residue levels reflect the use of minimum quantities of pesticides necessary to achieve effective protection of plants, applied in such a manner that the amount of residue is as low as is practicable and toxicologically acceptable, having regard, in particular to the protection of the environment and the estimated dietary intake of consumers. In the case of foodstuffs of animal origin, residue levels reflect the consumption by animals of cereals and products of plant origin treated with pesticides, and where relevant, the direct consequences of the use of veterinary medicines. Community maximum residue levels (MRLs) represent the upper limit of the amount of such residues that might be expected to be found in commodities when good agricultural practices have been respected.
- (2) MRLs for pesticides are kept under review and changed to take account of new information and data. MRLs are fixed at the lower limit of analytical determination where authorised uses of plant protection products do not

result in detectable levels of pesticide residue in or on the food product, or where there are no authorised uses, or where uses which have been authorised by Member States have not been supported by the necessary data, or where uses in third countries resulting in residues in or on food products which may enter into circulation in the Community market have not been supported by the necessary data.

- (3) In the case of fenamiphos, a Member State informed the Commission of its desire to revise national MRLs in accordance with Article 8 of Directive 90/642/EEC, in the light of concerns about consumer intake. A proposal for the review of Community MRLs was submitted to the Commission.
- (4) The lifetime and short term exposure of consumers to fenamiphos referred to in this Directive via food products has been reassessed and evaluated in accordance with Community procedures and practices, taking account of guidelines published by the World Health Organisation ⁽⁷⁾. It is calculated that the MRLs fixed in this Directive will not lead to unacceptable consumer exposure.
- (5) Where relevant, the acute exposure of consumers to those pesticides via each of the food products that may contain residues has been assessed and evaluated in accordance with Community procedures and practices, taking account of guidelines published by the World Health Organisation. It is concluded that the presence of pesticide residues at or below the MRLs proposed in this Directive will not cause acute toxic effects.
- (6) Through the World Trade Organisation, the Community's trading partners have been consulted about the MRLs proposed in this Directive and their comments on these levels have been taken into account.
- (7) The opinions of the Scientific Committee for Plants have been taken into account, in particular its advice and recommendations concerning the methodology to be followed for the protection of consumers of agricultural products treated with pesticides.

⁽¹⁾ OJ L 221, 7.8.1986, p. 37.

⁽²⁾ OJ L 154, 21.6.2003, p. 70.

⁽³⁾ OJ L 221, 7.8.1986, p. 43.

⁽⁴⁾ OJ L 155, 24.6.2003, p. 15.

⁽⁵⁾ OJ L 350, 14.12.1990, p. 71.

⁽⁶⁾ OJ L 175, 15.7.2003, p. 37.

⁽⁷⁾ 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).

- (8) The Annexes to Directives 86/362/EEC, 86/363/EEC and 90/642/EEC should therefore be amended accordingly.
- (9) The measures provided for in this Directive are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DIRECTIVE:

Article 1

In part A of Annex II to Directive 86/362/EEC the following rows are added:

'Pesticide residue'	Maximum level in mg/kg
Fenamiphos (sum of fenamiphos and its sulphoxide and sulphone expressed as fenamiphos)	0,02 (*) Cereals

(*) Indicates lower limit of analytical determination.'

Article 2

In part B of Annex II to Directive 86/363/EEC the following row is added:

'Pesticide residue'	Maximum level in mg/kg		
	Of meat, including fat, preparations of meat, offal 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
Fenamiphos (sum of fenamiphos and its sulphoxide and sulphone expressed as fenamiphos)	0,01 (*)	0,005 (*)	0,01 (*)

(*) Indicates lower limit of analytical determination.'

Article 3

Annex II to Directive 90/642/EEC is amended as follows:

'The MRLs for fenamiphos in the Annex to this directive are added to the MRLs in Annex II to Directive 90/642/EEC.'

Article 4

Member States shall adopt and publish the provisions necessary to comply with this Directive by 31 July 2004 at the latest. They shall forthwith inform the Commission thereof.

They shall apply those provisions from 1 August 2004.

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 5

This Directive shall enter into force on the seventh day following that of its publication in the *Official Journal of the European Union*.

Article 6

This Directive is addressed to the Member States.

Done at Brussels, 9 January 2004.

For the Commission
David BYRNE
Member of the Commission

ANNEX

'Groups and examples of individual products to which the MRLs would apply	Pesticide residue and maximum residue level (mg/kg)
	Fenamiphos (sum of fenamiphos and its sulphoxide and sulphone expressed as fenamiphos)
1. Fruit, fresh, dried or uncooked, preserved by freezing, not containing added sugar; nuts	
(i) CITRUS FRUIT	0,02 (*)
Grapefruit	
Lemons	
Limes	
Mandarins (including clementines and other hybrids)	
Oranges	
Pomelos	
Others	
(ii) TREE NUTS (shelled or unshelled)	0,02 (*)
Almonds	
Brazil nuts	
Cashew nuts	
Chestnuts	
Coconuts	
Hazelnuts	
Macadamia	
Pecans	
Pine nuts	
Pistachios	
Walnuts	
Others	
(iii) POME FRUIT	0,02 (*)
Apples	
Pears	
Quinces	
Others	
(iv) STONE FRUIT	0,02 (*)
Apricots	
Cherries	
Peaches (including nectarines and similar hybrids)	

'Groups and examples of individual products to which the MRLs would apply	Pesticide residue and maximum residue level (mg/kg)
	Fenamiphos (sum of fenamiphos and its sulphoxide and sulphone expressed as fenamiphos)
Plums	
Others	
(v) BERRIES AND SMALL FRUIT	0,02 (*)
(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	
(d) Other small fruit and berries (other than wild)	
Bilberries	
Cranberries	
Currants (red, black and white)	
Gooseberries	
Others	
(e) Wild berries and wild fruit	
(vi) MISCELLANEOUS	
Avocados	
Bananas	0,05
Dates	
Figs	
Kiwi	
Kumquats	
Litchis	
Mangoes	
Olives	
Passion fruit	
Pineapples	
Pomegranate	
Others	0,02 (*)

Groups and examples of individual products to which the MRLs would apply	Pesticide residue and maximum residue level (mg/kg)
	Fenamiphos (sum of fenamiphos and its sulphoxide and sulphone expressed as fenamiphos)
2. Vegetables, fresh or uncooked, frozen or dry	
(i) ROOT AND TUBER VEGETABLES	
Beetroot	
Carrots	0,5
Celeriac	
Horseradish	
Jerusalem artichokes	
Parsnips	
Parsley root	
Radishes	
Salsify	
Sweet potatoes	
Swedes	
Turnips	
Yam	
Others	0,02 (*)
(ii) BULB VEGETABLES	0,02 (*)
Garlic	
Onions	
Shallots	
Spring onions	
Others	
(iii) FRUITING VEGETABLES	
(a) Solanacea	
Tomatoes	0,05
Peppers	0,1
Aubergines	0,05
Others	0,02 (*)
(b) Cucurbits — edible peel	
Cucumbers	0,05
Gherkins	
Courgettes	0,05
Others	0,02 (*)

'Groups and examples of individual products to which the MRLs would apply	Pesticide residue and maximum residue level (mg/kg)
	Fenamiphos (sum of fenamiphos and its sulphoxide and sulphone expressed as fenamiphos)
(c) Cucurbits — inedible peel	
Melons	0,05
Squashes	
Watermelons	0,05
Others	0,02 (*)
(d) Sweet corn	0,02 (*)
(iv) BRASSICA VEGETABLES	
(a) Flowering brassica	0,02 (*)
Broccoli (including Calabrese)	
Cauliflower	
Others	
(b) Head brassica	
Brussels sprouts	0,05
Head cabbage	0,05
Others	0,02 (*)
(c) Leafy brassica	0,02 (*)
Chinese cabbage	
Kale	
Others	
(d) Kohlrabi	0,02 (*)
(v) LEAF VEGETABLES AND FRESH HERBS	0,02 (*)
(a) Lettuce and similar	
Cress	
Lamb's lettuce	
Lettuce	
Scarole (broad-leaf endive)	
Others	
(b) Spinach and similar	
Spinach	
Beet leaves (chard)	
Others	
(c) Water cress	

'Groups and examples of individual products to which the MRLs would apply	Pesticide residue and maximum residue level (mg/kg)
	Fenamiphos (sum of fenamiphos and its sulphoxide and sulphone expressed as fenamiphos)
(d) Witloof	
(e) Herbs	
Chervil	
Chives	
Parsley	
Celery leaves	
Others	
(vi) LEGUME VEGETABLES (fresh)	0,02 (*)
Beans (with pods)	
Beans (without pods)	
Peas (with pods)	
Peas (without pods)	
Others	
(vii) STEM VEGETABLES (fresh)	0,02 (*)
Asparagus	
Cardoons	
Celery	
Fennel	
Globe artichokes	
Leek	
Rhubarb	
Others	
(viii) FUNGI	0,02 (*)
(a) Cultivated mushrooms	
(b) Wild mushrooms	
3. Pulses	0,02 (*)
Beans	
Lentils	
Peas	
Others	
4. Oilseeds	0,05 (*)
Linseed	
Peanuts	

‘Groups and examples of individual products to which the MRLs would apply	Pesticide residue and maximum residue level (mg/kg)
	Fenamiphos (sum of fenamiphos and its sulphoxide and sulphone expressed as fenamiphos)
Poppy seed	
Sesame seed	
Sunflower seed	
Rape seed	
Soya bean	
Mustard seed	
Cotton seed	
Others	
5. Potatoes	0,02 (*)
Early potatoes	
Ware potatoes	
6. Tea (dried leaves and stalks, fermented or otherwise, <i>Camellia sinensis</i>)	0,05 (*)
7. Hops (dried), including hop pellets and unconcentrated powder	0,05 (*)

(*) Indicates lower limit of analytical determination.’