



**Pesticide
Action
Network**
Europe

MRL harmonisation

Background Paper

An Agreement on temporary EU MRLs

On 23 February 2005, the European Parliament and the Council established Regulation (396/2005) on the Maximum Residue Levels (MRLs) of pesticides in food items sold in the EU.¹ At the time, harmonised EU MRLs had yet to be established for the majority of pesticide substances – due largely to the lengthy process of assessing the impacts of each chemical, and the backlog of substances pending review.

Regulation (396/2005) set out to establish ‘temporary’ EU MRLs for all pesticide substances yet to undergo scientific review under Regulation (91/414). These limits would replace existing national MRLs, and provide interim legal thresholds until each pesticide could be individually assessed – a process likely to take decades.

In setting out the manner by which temporary EU MRLs would be established, Regulation (396/2005) stated:

- that ‘temporary MRLs shall be set at the lowest level that can be achieved in all Member States on the basis of good agricultural practice’ (Article 25)
- that when setting MRLs account shall be taken of ‘cumulative and synergistic effects, when the methods to assess such effects are available’ (Article 14)
- ‘the need to ensure ‘a high level of consumer protection’ (Article 1)

What happened next?

On 15 March 2007, the European Food Standards Agency (EFSA) published a ‘Reasoned Opinion’ on the Commission’s progress in setting the forthcoming temporary EU MRLs as envisaged by Regulation (396/2005).² According to EFSA, the Commission had approached the task by identifying the highest national MRL for each pesticide requiring a temporary EU MRL. For each pesticide/ commodity combination the Commission then sought to adopt the worst national safety standard as the temporary EU MRL.

Implementing the temporary EU MRLs

On 1 March 2008, the Official Journal of the European Union published Commission Regulation (EC) 149/2008 establishing the temporary EU MRLs drawn up by the Commission.³ According to the Commission these values incorporate the revisions recommended by EFSA such that all potential chronic and acute health risks have been eliminated. The temporary EU MRLs detailed in Commission Regulation (EC) 149/2008 are now set to replace existing MRLs on 1 September 2008.

The Reaction from NGOs

Since the publication of the EFSA study and the establishment of Commission Regulation (EC) 149/2008, the Commission has received widespread criticism from environmental and public health NGOs for failing to follow the terms of Regulation (396/2005) in setting temporary EU MRLs.

Perhaps most importantly, the Commission has openly flouted its obligation to ensure that temporary EU MRLs are set at the lowest achievable level commensurate with good agricultural practice. The Commission's methodology centred on standardising at the value of the lowest common denominator, when it should have sought to propagate the adoption of existing best practices among all Member States.

Furthermore at no point did the Commission take into consideration cumulative and synergistic effects – despite the obligation to do so under Article 14 of Regulation (396/2005). Several models designed to assess these factors are available – the US for example has made cumulative risk assessments relating to exposure to organophosphates since 2003.⁴

Towards better EU MRLs

Ahead of the forthcoming implementation of the temporary EU MRLs on 1 September 2008, several European NGOs are already urging the Commission to reconsider.

Natuur en Milieu and PAN Europe wrote to the Commissioner for Health to submit a formal request for an internal review of Regulation 149/2008. The letter, dated 10 April, made clear that the temporary EU MRLs are fundamentally flawed and should be reviewed as a matter of urgency. Three months later the Commission replied arguing that the demand for an internal review was 'inadmissible' on a legal technicality. Natuur en Milieu and PAN Europe are now challenging this decision at the European Court of First Instance. The case is ongoing.

Austrian environmental NGO Global 2000 published a comparison of existing national MRLs in Austria versus the incoming temporary EU MRLs.⁵ The study found that 65% of MRLs are set to increase by between 1.65-fold and 1000-fold of the current legal maximum. Most of the rest will remain unchanged.

On 28 August, Greenpeace and Global 2000 published a joint study showing that the new MRLs set pesticide limits at levels unsafe for consumers – according to the EU's own safety standards and methodologies. In particular the consumption of apples, pears, grapes, tomatoes and peppers could now pose health risks for children.

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¹ Regulation (EC) 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

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:070:0001:0016:EN:PDF>

² Reasoned opinion on the potential chronic and acute risk to consumers health arising from proposed temporary EU MRLs, European Food Standards Agency, 15 March 2007

www.efsa.europa.eu/EFSA/efsa_locale-1178620753812_1178620776373.htm

³ Commission Regulation (EC) 149/2008 of 29 January 2008 amending Regulation (EC) 396/2005 setting maximum residue levels

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:058:0001:0398:EN:PDF>

⁴ Framework for Cumulative Risk Assessment, Risk Assessment Forum, US Environmental Protection Agency, May 2003

http://oaspub.epa.gov/eims/eimscomm.getfile?p_download_id=36941

⁵ Vergleich der in Anhang III der Verordnung 149/2008 gelisteten EU-Höchstmengen (TMRLs) mit den derzeit in Österreich geltenden Höchstwerten für Pestizidrückstände, Global 2000, 29 May 2008 www.global2000.at/download/file5013.pdf