

Commission Regulation (EC) No 372/2007 of 2 April 2007 laying down transitional migration limits for plasticisers in gaskets in lids intended to come into contact with foods (Text with EEA relevance)

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of 2 April 2007

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(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 1935/2004 of the European Parliament and of the Council of 27 October 2004 on materials and articles intended to come into contact with food and repealing Directives 80/590/EEC and 89/109/EEC<sup>(1)</sup>, and in particular Article 5(1) thereof,

After consulting the European Food Safety Authority (the Authority),

Whereas:

- (1) In 1999 the Scientific Committee for food has assigned to epoxidised soybean oil (ESBO) a tolerable daily intake (TDI) of 1 mg/kg body weight per day. This TDI is translated into a specific migration limit (SML) of 60 mg/kg food for plastic materials and articles in Commission Directive 2002/72/EC<sup>(2)</sup>.
- [<sup>X1</sup>(2) Commission Directive 2007/19/EC of 2 April 2007 amending Directive 2002/72/EC relating to plastic materials and articles intended to come into contact with food<sup>(3)</sup>clarifies that gaskets in lids fall under the scope of Directive 2002/72/EC. It stipulates that Member States have to adopt measures by 1 May 2008 that allow free circulation of gaskets in lids if they comply with SML. Non-compliant gaskets in lids will be prohibited as from 1 July 2008.]
- (3) It appears necessary to regulate the placing on the market of those products pending the implementation of Directive 2007/19/EC.
- (4) Indeed, recent data from Member States and Switzerland showed concentrations of ESBO in fatty food, such as sauces and vegetables or fish in oil, reaching up to 1 150 mg/kg. With such high values, the TDI may be exceeded for consumers.
- (5) Recently business operators have shown an interest in using other plasticisers as substitutes for ESBO which either have a higher TDI or migrate to lesser extent. Therefore specific rules for these substitutes are also necessary.
- (6) Moreover, the legal situation of these products is currently uncertain. Directive 2002/72/EC applies to materials and articles, and parts thereof, which consist exclusively of plastics or are composed of two or more layers consisting exclusively of plastics.

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**Changes to legislation:** There are currently no known outstanding effects for the Commission Regulation (EC) No 372/2007, Introductory Text. (See end of Document for details)

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Gaskets in metal lids could alternatively be regarded as a plastic part of a material or article and thus covered by Directive 2002/72/EC or as a plastic coating on a metal substrate, and thus not covered by Directive 2002/72/EC.

- (7) As a consequence, Member States currently apply diverging rules that may pose a barrier to trade.
- (8) It therefore appears proportionate to fix transitional SML for the sum of certain plasticisers used in gaskets in lids contacting fatty foods, so that the free circulation of those products is not endangered, the lids and foods that pose a significant risk are immediately excluded from the market and, at the same time, industry has sufficient time to finalise the development of gaskets that are compliant with the SML laid down in Directive 2002/72/EC as amended by Directive 2007/19/EC.
- (9) The transitional SML should be set at a level ensuring that normally the TDI will not be exceeded, taking into account the average consumption of the foods concerned and the opinion issued by EFSA on 16 March 2006, which indicated that the level of plasticisers present in 90 % of the fatty food in glass jars is below 300 mg/kg food.
- (10) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS REGULATION:

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**Editorial Information**

- X1** Substituted by [Corrigendum to Commission Regulation \(EC\) No 372/2007 of 2 April 2007 laying down transitional migration limits for plasticisers in gaskets in lids intended to come into contact with foods \(Official Journal of the European Union L 92 of 3 April 2007\)](#).

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- (1) [OJ L 338, 13.11.2004, p. 4.](#)
- (2) [OJ L 220, 15.8.2002, p. 18.](#) Directive as last amended by Directive 2005/79/EC ([OJ L 302, 19.11.2005, p. 35](#)).
- (3) [<sup>X1</sup>[OJ L 91, 31.3.2007, p. 17, corrected by OJ L 97, 12.4.2007, p. 50.](#)]

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**Changes to legislation:**

There are currently no known outstanding effects for the Commission Regulation (EC) No 372/2007, Introductory Text.