Commission Regulation (EU) No 310/2011 of 28 March 2011 amending Annexes II and III to Regulation (EC) No 396/2005 of the European Parliament and of the Council as regards maximum residue levels for aldicarb, bromopropylate, chlorfenvinphos, endosulfan, EPTC, ethion, fenthion, fomesafen, methabenzthiazuron, methidathion, simazine, tetradifon and triforine in or on certain products (Text with EEA relevance)

COMMISSION REGULATION (EU) No 310/2011

of 28 March 2011

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(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EC) No 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 of plant and animal origin and amending Council Directive 91/414/EEC[(1)], and in particular Article 14(1)(a) thereof,

Whereas:

(1) For aldicarb, bromopropylate, chlorfenvinphos, endosulfan, EPTC, ethion, fenthion, methidathion, simazine and triforine maximum residue levels (MRLs) are set in Annex II and Part B of Annex III to Regulation (EC) No 396/2005. For fomesafen, methabenzthiazuron and tetradifon MRLs were set in Part A of Annex III to Regulation (EC) No 396/2005.

(2) The non-inclusion of aldicarb in Annex I to Council Directive 91/414/EEC[(2)] is provided for in Council Decision 2003/199/EC[(3)] and certain Member States were authorised to grant a period of grace expiring no later than 31 December 2007. The non-inclusion of bromopropylate, chlorfenvinphos, EPTC, ethion, fomesafen, tetradifon and triforine is provided for in Commission Regulation (EC) No 2076/2002[(4)] and certain Member States were authorised to grant a period of grace expiring no later than 31 December 2007. The non-inclusion of endosulfan in Annex I to Directive 91/414/EEC is provided for in Commission Decision 2005/864/EC[(5)] and certain Member States were authorised to grant a period of grace expiring no later than 31 December 2007. The non-inclusion of fenthion in Annex I to Directive 91/414/EEC is provided for in Commission Decision 2004/140/EC[(6)] and certain Member States were authorised to grant a period of grace expiring no later than 31 December 2007. The non-inclusion of methabenzthiazuron in Annex I to Directive 91/414/EEC is provided for in Commission Decision 2006/302/

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EC[7] and certain Member States were authorised to grant a period of grace expiring no later than 31 December 2009. The non-inclusion of methidathion in Annex I to Directive 91/414/EEC is provided for in Commission Decision 2004/129/EC[8] and certain Member States were authorised to grant a period of grace expiring no later than 31 December 2007.The non-inclusion of simazine in Annex I to Directive 91/414/EEC is provided for in Commission Decision 2004/247/EC[9] and certain Member States were authorised to grant a period of grace expiring no later than 31 December 2007.

(3) Since those periods of grace have expired, it is appropriate to lower the MRLs of those substances to the relevant level of analytical determination (LOD). This should not apply to CXLs based on uses in third countries, provided that those CXLs are acceptable with regard to consumer safety. Nor should it apply in cases where MRLs have been specifically set as import tolerances.

(4) The Commission asked the European Food Safety Authority, hereinafter 'the Authority', to give an opinion on CXLs based on uses in third countries for bromopropylate, methidathion and triforine, examining in particular the risks to the consumer and, where relevant, to animals. The Authority gave reasoned opinions on those substances and forwarded them to the Commission and the Member States and made them available to the public.

(5) In its opinion of 31 May 2010[10] concerning bromopropylate the Authority concluded that the existing CXLs for citrus fruit, pome fruit and grapes cannot be considered acceptable with regard to consumer exposure. Therefore the current MRLs for these crops should be lowered to the relevant LOD.

(6) In its opinion of 31 May 2010[11] concerning Methidathion the Authority concluded that the available data do not support the existing MRLs on citrus fruit, cherries, peaches, plums, olives, onions, tomatoes, cucumber, head cabbage, dry peas, rape seed, sunflower seed, maize, tea, pome fruit and pineapples. As regards pome fruit and pineapples, however, the Authority proposed new MRLs, based on the available data. In respect of peas with pods and hops, the Authority concluded that the existing MRLs are obsolete and no longer required for international trade. Therefore the current MRLs for all these crops should be amended accordingly.

(7) In its opinion of 31 May 2010[12] concerning triforine the Authority concluded that the available data do not support the existing MRLs on pome fruit, stone fruit, currants, gooseberries, cucurbits (edible peel), barley, oats, rye, wheat and hops. Therefore the current MRLs for these crops should be lowered to the relevant LOD.

(8) The Commission consulted the European Union reference laboratories for residues of pesticides as regards the need to adapt certain LODs. As regards bromopropylate, EPTC, fenthion, methabenzthiazuron, simazine, tetradifon and triforine, those laboratories concluded that for certain commodities technical development permits the setting of lower LODs. Furthermore, those laboratories advised to increase the LOD for aldicarb in tree nuts and bulb vegetables, for chlorfenvinphos in tree nuts, bulb vegetables, oilseeds and oil fruits, for endosulfan in bulb vegetables, for ethion in tree nuts, bulb vegetables, tea, coffee, herbal infusions and cocoa, hops and spices, for fenthion in tree nuts and bulb vegetables, for fomesafen in tree nuts, bulb vegetables,

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oilseeds and oil fruits, tea, coffee, herbal infusions and cocoa, hops and spices and for Methidathion in bulb vegetables, oilseeds and oil fruits.

(9) Based on the reasoned opinions of the Authority and on the technical advice of those laboratories and taking into account the factors relevant to the matter under consideration, the appropriate modifications to the MRLs fulfil the requirements of Article 14(2) of Regulation (EC) No 396/2005.

(10) Through the World Trade Organisation, the trading partners of the Union were consulted on the new MRLs and their comments have been taken into account.

(11) A reasonable period should be allowed to elapse before the modified MRLs become applicable in order to permit third countries and food business operators to prepare themselves to meet the new requirements which will result from the modification of the MRLs.

(12) Annexes II and III to Regulation (EC) No 396/2005 should therefore be amended accordingly.

(13) In order to allow for the normal marketing, processing and consumption of products, the Regulation provides for a transitional arrangement for products which have been lawfully produced before the modification of the MRLs and for which the Authority's model for acute and chronic risk assessment shows that a high level of consumer protection is maintained.

(14) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health and neither the European Parliament nor the Council has opposed them,

HAS ADOPTED THIS REGULATION:

Article 1

Annexes II and III to Regulation (EC) No 396/2005 are amended in accordance with the Annex to this Regulation.

Article 2

As regards the active substances and the products set out in the following list, Regulation (EC) No 396/2005 as it stood before being amended by this Regulation shall continue to apply to products which were lawfully produced before 21 October 2011:

(a) aldicarb	:	cereals;
(b) bromopropylate	:	quinces jelly, wine, raisins, tomato juice, preserved tomatoes, beans, herbal infusions (flowers);
(c) chlorfenvinphos	:	cultivated fungi;
(d) endosulfan	:	preserved tomatoes, wine, raisins, pear juice, tomato juice, grapes juice, herbal infusions (flowers, leaves, roots);
(e) EPTC	:	potato flakes, fried potatoes, maize, sunflower seeds, legume vegetables;
(f) ethion	:	azarole juice, cherimoya juice, guava juice, lentils, bamboo shoots, dried herbs (sage, rosemary, thyme, basil, bay leaves and tarragon);
(g) fenthion	:	olive oil;

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(h) fomesafen	:	beans and peas (with and without pods, pulses), soya beans;
(i) methabenzthiazuron	:	all vegetables;
(j) methidathion	:	all fruit and vegetables except for citrus fruit; dry peas, maize, sorghum, sunflower seeds and rape seeds;
(k) simazine	:	all fruit and vegetables, pulses, oilseeds and oil fruits, cereals;
(l) tetradifon	:	wine, raisins, pulses;
(m) triforine	:	all fruit and vegetables except for pome fruit.

Article 3

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

It shall apply from 21 October 2011.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 28 March 2011.

For the Commission

The President

José Manuel BARROSO

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ANNEX

Annexes II and III to Regulation (EC) No 396/2005 are amended as follows:

(1) in Annex II, the columns for aldicarb, bromopropylate, chlorfenvinphos, endosulfan, EPTC, ethion, fenthion, methidathion, simazine and triforine are replaced by the following:

PESTICIDE RESIDUES AND MAXIMUM RESIDUE LEVELS (MG/KG)

Code number	Groups and examples of individual products to which the MRLs apply[a]	Aldicarb (sum of aldicarb, its sulfoxide and its sulfone, expressed as aldicarb)	Bromopropylate (F)	Chlorfenvinphos (F)	Endosulfan (sum of alpha- and beta-isomers and endosulfan-sulphate expresses as endosulfan) (F)	Ethion	Fenthion (fenthion and its oxigen analogue, their sulfoxides and sulfone expressed as parent) (F)	Methidathion	Triforine
0100000	1. **FRESH OR FROZEN; NUTS**	**FRUIT**							
0110000	(i) **fruit**	0,02[b] **Citrus**	**0,01**[b]	0,02[b]	0,05[b]	0,01[b]	**0,01**[b]	**0,02**[b]	**0,01**[b]
0110010	Grapefruit (Shaddocks, pomelos, sweeties, tangelo (except mineola), ugli and other hybrids)								
0110020	Oranges (Bergamot,								

a For the complete list of products of plant and animal origin to which MRLs apply, reference should be made to Annex I.

b Indicates lower limit of analytical determination

c Pesticide-code combination for which the MRL as set in Annex III Part B applies.

(F) = Fat soluble