Commission Regulation (EC) No 1097/2009 of 16 November 2009 amending Annex II to Regulation (EC) No 396/2005 of the European Parliament and of the Council as regards maximum residue levels for dimethoate, ethephon, fenamiphos, fenarimol, methamidophos, methomyl, omethoate, oxydemeton-methyl, procymidone, thiodicarb and vinclozolin in or on certain products (Text with EEA relevance)

COMMISSION REGULATION (EC) No 1097/2009

of 16 November 2009

amending Annex II to Regulation (EC) No 396/2005 of the European Parliament and of the Council as regards maximum residue levels for dimethoate, ethephon, fenamiphos, fenarimol, methamidophos, methomyl, omethoate, oxydemeton-methyl, procymidone, thiodicarb and vinclozolin in or on certain products

(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 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), in conjunction with Article 15(1)(a), and Article 49 (2) thereof,

Whereas:

(1) For dimethoate, ethephon, fenamiphos, fenarimol, methamidophos, methomyl, omethoate, oxydemeton-methyl, procymidone, thiodicarb and vinclozolin maximum residue levels (MRLs) are set in Annex II to Regulation (EC) No 396/2005.

(2) New information on the toxicology, consumer exposure or the expected pesticide residues has become available which indicates that the MRLs may raise concerns of consumer protection.

(3) In its opinion of 20 October 2008[(2)] concerning dimethoate and omethoate the Authority concluded in particular that at the current MRLs for head cabbage, lettuce, cauliflower, cherries, wheat, peas with pods and Brussels sprouts there is a risk that the Acceptable Daily Intake and the Acute Reference Dose (ARfD) for one or more consumer groups will be exceeded. Therefore the current MRLs for these crops should be lowered.

(4) In its opinion of 15 September 2008[(3)] concerning ethephon the Authority concluded that at the current MRLs for pineapples, currants, grapes and peppers there is a risk that the Acute Reference Dose (ARfD) for one or more consumer groups will be exceeded. Therefore the current MRLs for these crops should be lowered.

(5) In its opinion of 15 September 2008[(4)] concerning fenamiphos the Authority concluded that at the current MRLs for bananas, carrots, peppers, cucumbers, melons, head cabbage, and sugar beet there is a risk that the Acceptable Daily Intake and the Acute

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Reference Dose (ARfD) for one or more consumer groups will be exceeded. Therefore the current MRLs for these crops should be lowered.

(6) In its opinion of 15 September 2008[(5)] concerning fenarimol the Authority concluded that at the current MRLs for bananas, tomatoes and peppers there is a risk that the Acute Reference Dose (ARfD) for one or more consumer groups will be exceeded. Therefore the current MRLs for these crops should be lowered.

(7) In its opinion of 15 September 2008[(6)] concerning methamidophos the Authority concluded that at the current MRLs for apricots, beans with pods and sugar beet there is a risk that the Acute Reference Dose (ARfD) for one or more consumer groups will be exceeded. Therefore the current MRLs for these crops should be lowered.

(8) In its opinion of 26 September 2008[(7)] concerning methomyl and thiodicarb the Authority concluded that at the current MRLs for grapes, head cabbage, lettuce, cauliflower, potatoes, tomatoes, aubergines, cucumbers, grapefruit, oranges, lemons, limes, mandarins, peaches, plums, peppers, apples, pears, quinces, bananas, mangoes, pineapples, carrots, celeriac, radishes, swedes, (water) melons, pumpkins, sweet corn, broccoli, kale, kohlrabi, scarole, leek and sugar beet there is a risk that the Acceptable Daily Intake and the Acute Reference Dose (ARfD) for one or more consumer groups will be exceeded. Therefore the current MRLs for these crops should be lowered.

(9) In its opinion of 16 September 2008[(8)] concerning oxydemeton-methyl the Authority concluded that at the current MRLs for brussels sprouts, head cabbage, kohlrabi, lettuce and other salad plants including brassica, barley, oats and sugar beet there is a risk that the Acceptable Daily Intake and the Acute Reference Dose (ARfD) for one or more consumer groups will be exceeded. The Authority also concluded that the lowest limit of analytical determination (LOD) could technically be lowered and that by lowering it the control would be improved. Therefore the current MRLs for brussels sprouts, head cabbage, kohlrabi, lettuce and other salad plants including brassica, barley, oats, sugar beet and the LODs for all other crops should be lowered.

(10) In its opinion of 21 January 2009[(9)] concerning procymidone the Authority concluded that at the current MRLs for apricots, grapes, strawberries, raspberries, kiwi, (lamb's) lettuce, tomatoes, peppers, aubergines, cucumbers, gherkins, courgette, peaches, plums, pears, (water) melons, pumpkins, scarole, ruccola, witloof, beans with pods, sunflower seed, rapeseed, soya bean and products of animal origin there is a risk that the Acceptable Daily Intake and the Acute Reference Dose (ARfD) for one or more consumer groups will be exceeded. Therefore the current MRLs for these crops should be lowered.

(11) In its opinion of 16 September 2008[(10)] concerning vinclozolin the Authority concluded that at the current MRLs for apples, pears, table grapes, scarole, aubergine, Chinese cabbage, plums, apricots, lettuce, currants, witloof, strawberries, beans, hops, rape seed, carrots, shallots, spring onions, pumpkin, okra, cress, rocket and other salad plants and (water) melons there is a risk that the Acceptable Daily Intake and the Acute Reference Dose (ARfD) for one or more consumer groups will be exceeded. Therefore the current MRLs for these crops should be lowered.

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(12) It is appropriate to set new MRLs taking account of the opinions of the Authority. These new MRLs recommended by the Authority, are based on existing authorised agricultural uses that lead to lower residues or, when these do not exist, on the LOD. For ethephon on pineapples, this Regulation establishes an MRL that was not recommended by the Authority, but which was indicated as safe in the reasoned opinion of the Authority.

(13) Through the World Trade Organisation, the Community's trading partners have been consulted about the new MRLs and their comments on these levels have been taken into account.

(14) A reasonable period should be allowed to elapse before the modified MRLs become applicable in order to permit Member States and interested parties to prepare themselves to meet the new requirements which will result from the modification of the MRLs.

(15) Annex II to Regulation (EC) No 396/2005 should therefore be amended accordingly.

(16) 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 EFSA opinions show that a high level of consumer protection is maintained.

(17) 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

Annex II to Regulation (EC) No 396/2005 is 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 produced before 7 June 2010:

(a) dimethoate: cherry juice, wheat after storage, frozen peas with pods;

(b) ethephon: preserved pineapples, pineapple juice, preserved peppers;

(c) fenarimol: tomato juice, preserved tomatoes, preserved peppers;

(d) methamidophos: apricot juice, preserved apricots, and frozen beans with pods;

(e) methomyl/thiodicarb: raisins and preserved peach;

(f) oxydemeton-methyl: oilseeds, cereals, milk powder, tea, wine, juices, preserved, frozen and dried fruit and vegetables, nuts;

(g) procymidone: oilseeds, preserved peaches, tomatoes, orange juice and raisins;

(h) vinclozolin: raspberry juice, apple juice, quince jelly, pear juice, preserved apricots, apricot juice.

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Article 3

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

It shall apply from 7 June 2010.

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

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ANNEX

Annex II to Regulation (EC) No 396/2005 is amended as follows:

The lines for dimethoate, ethephon, fenamiphos, fenarimol, methamidophos, methomyl, omethoate, oxydemeton-methyl, procymidone, thiodicarb, and vinclozolin 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]**	**Dimethoate (sum of dimethoate and omethoate expressed as dimethoate)**	**Ethephon**	**Fenamiphos (sum of fenamiphos and its sulphoxide and sulphone expressed as fenamiphos)**	**Fenarimol**	**Methamidophos**	**Methomyl and Thiodicarb (sum of methomyl and thiodicarb expressed as methomyl)**	**Oxydemeton-methyl (sum of oxydemeton-methyl and demeton-S-methylsulfone expressed as oxydemeton-methyl)**	**Procymidone**	**Vinclozolin (sum of vinclozolin and all metabolites containing the 3,5-dichloraninilinemoiety, expressed as vinclozolin)[d]**
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
0100000	1. **FRESH OR FROZEN; NUTS**	**FRUIT**						**0,01[b]**	**0,02[b]**	
0110000	(i) **fruit**	0,02[b] **Citrus**	0,05[b]	0,02[b]	0,02[b]	0,01[b]	**0,02[b]**			0,05[b]
0110010	Grapefruit (Shaddocks, pomelos, sweeties, tangelo, ugli and other hybrids)									
0110020	Oranges (Bergamot, bitter orange, chinotto and other hybrids)									