Commission Regulation (EC) No 1050/2009 of 28 October 2009 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 azoxystrobin, acetamiprid, clomazone, cyflufenamid, emamectin benzoate, famoxadone, fenbutatin oxide, flufenoxuron, fluopicolide, indoxacarb, ioxynil, mepanipyrim, prothioconazole, pyridalyl, thiacloprid and trifloxystrobin in or on certain products (Text with EEA relevance)

COMMISSION REGULATION (EC) No 1050/2009

of 28 October 2009

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 azoxystrobin, acetamiprid, clomazone, cyflufenamid, emamectin benzoate, famoxadone, fenbutatin oxide, flufenoxuron, fluopicolide, indoxacarb, ioxynil, mepanipyrim, prothioconazole, pyridalyl, thiacloprid and trifloxystrobin 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) thereof,

Whereas:

(1) For azoxystrobin, acetamiprid, famoxadone, fenbutatin oxide, indoxacarb, ioxynil, mepanipyrim, thiacloprid and trifloxystrobin maximum residue levels (MRLs) were set in Annexes II and III to Regulation (EC) No 396/2005. For clomazone, cyflufenamid, flufenoxuron, fluopicolide and prothioconazole, MRLs were set in Annex III to Regulation (EC) No 396/2005. For emamectin benzoate and pyridalyl no specific MRLs were set nor were the substances included in Annex IV to Regulation (EC) No 396/2005.

(2) In the context of a procedure, in accordance with Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market[(2)], for the authorisation of the use of a plant protection product containing the active substance azoxystrobin on beet leaves and broccoli an application was made under Article 6(1) of Regulation (EC) No 396/2005 for modifications of the existing MRLs.

(3) As regards acetamiprid, such an application was made for the use on cress, spinach and herbs, except parsley. As regards clomazone, such an application was made for the use on herbs. As regards cyflufenamid, such an application was made for the use on oats. In view of that application, it is also necessary to modify the existing MRLs for animal products, since this cereal is used as feed. As regards emamectin benzoate, such an application was made for the use on pome fruit, peaches and nectarines, table and wine

Changes to legislation: *There are outstanding changes not yet made to Commission Regulation (EC) No 1050/2009. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

grapes, strawberries, tomatoes, aubergines, pepper, cucurbits (edible and inedible peel), cauliflower, broccoli, head cabbage, lettuce and other salad plants, scarole, herbs, fresh beans (with and without pods), peas with pods and artichokes. As regards famoxadone, such an application was made for the use on flowers of herbal infusions. As regards fenbutatin oxide, such an application was made for the use on tomatoes. As regards indoxacarb, such an application was made for the use on small fruits and berries except gooseberries and currants. As regards ioxynil, such an application was made for the use on rye and triticale. In view of that application, it is also necessary to modify the existing MRLs for meat, liver, kidney and fat from bovines, sheep and goats, since those cereals are used in feed for these animals. As regards mepanipyrim, such an application was made for the use on courgette. As regards prothioconazole, such an application was made for the use on head cabbage and Brussels sprouts. As regards pyridalyl, such an application was made for the use on tomatoes, aubergines, peppers, cucurbits (inedible peel), lettuce and cotton seed. As regards thiacloprid, such an application was made for the use on leeks and spring onions. As regards trifloxystrobin, such an application was made for the use on head cabbage, celery, blue berries, lettuce, herbs, scarole and Brussels sprouts.

(4) In accordance with Article 6(2) of Regulation (EC) No 396/2005 applications were made for flufenoxuron on tea, fluopicolide on peppers and for trifloxystrobin on passion fruit. The authorised use of flufenoxuron on tea shrubs in Japan leads to higher residues than the present MRL in Annex III. To avoid trade barriers for the importation of Japanese tea, a higher MRL is necessary. The authorised use of fluopicolide on pepper plants in the USA leads to higher residues than the present MRL in Annex III. To avoid trade barriers for the importation of American peppers, a higher MRL is necessary. The authorised use of trifloxystrobin on passion fruit in Kenya leads to higher residues than the present MRL in Annex III. To avoid trade barriers for the importation of Kenyan passion fruits, a higher MRL is necessary.

(5) In accordance with Article 8 of Regulation (EC) No 396/2005, these applications were evaluated by the Member States concerned and the evaluation reports were forwarded to the Commission.

(6) The European Food Safety Authority, hereinafter ‘the Authority’, assessed the applications and the evaluation reports, examining in particular the risks to the consumer and where relevant to animals and gave reasoned opinions on the proposed MRLs[(3)]. It forwarded these opinions to the Commission and the Member States and made them available to the public.

(7) The Authority concluded in its reasoned opinions that all requirements with respect to data were met and that the modifications to the MRLs requested by the applicants were acceptable with regard to consumer safety on the basis of a consumer exposure assessment for 27 specific European consumer groups. It took into account the most recent information on the toxicological properties of the substances. Neither the lifetime exposure to these substances via consumption of all food products that may contain these substances, nor the short term exposure due to extreme consumption of the relevant crops showed that there is a risk that the acceptable daily intake (ADI) or

***Changes to legislation:** There are outstanding changes not yet made to Commission Regulation (EC) No 1050/2009. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

the acute reference dose (ARfD) is exceeded. Where the Authority recommended two MRL values for the same pesticide-product combination as two different 'risk management options', the Commission always opted for the lowest MRL in line with recital 5 of Regulation (EC) No 396/2005. In the case of flufenoxuron and tea, additional information provided by France about registered uses made it possible to conclude that the new MRL does not lead to a chronic health risk.

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

(9) Regulation (EC) No 396/2005 should therefore be amended accordingly.

(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 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

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

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

Changes to legislation: *There are outstanding changes not yet made to Commission Regulation (EC) No 1050/2009. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

ANNEX

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

(1) In Annex II the columns for azoxystrobin, acetamiprid, fenbutatin oxide, indoxacarb, ioxynil, mepanipyrim, thiacloprid and trifloxystrobin 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[b]**	**Acetamiprid (R)**	**Azoxystrobin**	**Fenbutatin oxide (F)**	**Indoxacarb as sum of the isomers S and R (F)[a]**	**Ioxynil, including its esters expressed as ioxynil (F)**	**Mepanipyrim (F) and its metabolite (2-anilino-4-(2-hydroxypropyl)-6-methylpyrimidine) expressed as mepanipyrim)**	**Thiacloprid**	**Trifloxystrobin**
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
0100000	1. **FRUIT FRESH OR FROZEN; NUTS**					0,05[c]			
0110000	(i) **fruit**	1 **Citrus**	1	5	0,02[c]		0,01[c]	0,02[c]	0,3
0110010	Grapefruit								
0110020	Oranges								
0110030	Lemons								
0110040	Limes								
0110050	Mandarins								
0110990	Others								

a The maximum residue level for cream of milk is 0,3 mg/kg.

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

c Indicates lower limit of analytical determination.

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

(F) = Fat soluble
(R) = The residue definition differs for the following combinations pesticide-code number:
Acetamiprid — code 1000000: Acetamiprid and IM-2-1 metabolite
Fenbutatin oxide (F)

***Changes to legislation:** There are outstanding changes not yet made to Commission Regulation (EC) No 1050/2009. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

0120000	(ii) **nuts (shelled or unshelled)**	0,01[c] **Tree**	0,1[c]	0,05[c]	0,05[c]		0,01[c]	0,02[c]	0,02[c]
0120010	Almonds								
0120020	Brazil nuts								
0120030	Cashew nuts								
0120040	Chestnuts								
0120050	Coconuts								
0120060	Hazelnuts								
0120070	Macadamia								
0120080	Pecans								
0120090	Pine nuts								
0120100	Pistachios								
0120110	Walnuts								
0120990	Others								
0130000	(iii) **fruit**	0,1 **Pome**	0,05[c]	2			0,01[c]	0,3	0,5
0130010	Apples				0,5				
0130020	Pears				0,3				
0130030	Quinces				0,3				
0130040	Medlar	[d]	[d]	[d]	[d]	[d]	[d]	[d]	[d]
0130050	Loquat	[d]	[d]	[d]	[d]	[d]	[d]	[d]	[d]
0130990	Others				0,3				

a The maximum residue level for cream of milk is 0,3 mg/kg.

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

c Indicates lower limit of analytical determination.

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

(F) = Fat soluble
(R) = The residue definition differs for the following combinations pesticide-code number:
Acetamiprid — code 1000000: Acetamiprid and IM-2-1 metabolite
Fenbutatin oxide (F)