Commission Regulation (EU) No 79/2014 of 29 January 2014 amending Annexes II, III and V to Regulation (EC) No 396/2005 of the European Parliament and of the Council as regards maximum residue levels for bifenazate, chlorpropham, esfenvalerate, fludioxonil and thiobencarb in or on certain products (Text with EEA relevance)

COMMISSION REGULATION (EU) No 79/2014

of 29 January 2014

amending Annexes II, III and V to Regulation (EC) No 396/2005 of the European Parliament and of the Council as regards maximum residue levels for bifenazate, chlorpropham, esfenvalerate, fludioxonil and thiobencarb in or on certain products

(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), Article 18(1)(b) and Article 49(2) thereof,

Whereas:

(1) For bifenazate, chlorpropham and esfenvalerate, maximum residue levels (MRLs) were set in Annex II and Part B of Annex III to Regulation (EC) No 396/2005. For fludioxonil and thiobencarb, MRLs were set in Part A of Annex III to that Regulation.

(2) For bifenazate, the European Food Safety Authority, hereinafter 'the Authority', submitted a reasoned opinion on the existing MRLs in accordance with Article 12(2) of Regulation (EC) No 396/2005 in conjunction with Article 12(1) thereof[(2)]. It proposed to change the residue definition. As regards citrus fruit, stone fruit, grapes, hops, strawberries, tomatoes, peppers, aubergines, melons, watermelons, currants (red, black and white), blackberries and raspberries, after submitting the opinion referred to in the first sentence, the Authority submitted further opinions concerning the MRLs[(3)(4)]. It is appropriate to take those opinions into account. The Authority recommended, for certain products, raising or keeping the existing MRLs or setting MRLs at the level identified by it. It concluded that concerning the MRLs for pome fruit, aubergines (egg plants), beans (fresh, without pods), peas (fresh, without pods) and lentils (fresh) some information was not available and that further consideration by risk managers was required. As there is no risk for consumers, MRLs for those products should be set in Annex II to Regulation (EC) No 396/2005 at the existing level or the level identified by the Authority. Those MRLs will be reviewed; the review will take into account the information available within two years from the publication of this Regulation.

Changes to legislation: *There are outstanding changes not yet made to Commission Regulation (EU) No 79/2014. 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*

(3) For chlorpropham, the Authority submitted a reasoned opinion on the existing MRLs in accordance with Article 12(2) of Regulation (EC) No 396/2005 in conjunction with Article 12(1) thereof[(5)]. It proposed to change the residue definition. It recommended lowering the MRLs for cattle milk, sheep milk and goat milk. It concluded that concerning the MRLs for potatoes, celeriac, onions, shallots, lettuce, scarole, rocket, rucola, spinach, witloof, cardoons, celery, fennel, herbal infusions (dried flowers), spices (fruits and berries), chicory roots, poultry meat, poultry fat, poultry liver and bird's eggs some information was not available and that further consideration by risk managers was required. As there is no risk for consumers, MRLs for those products should be set in Annex II to Regulation (EC) No 396/2005 at the existing level or the level identified by the Authority. Those MRLs will be reviewed; the review will take into account the information available within two years from the publication of this Regulation. For other products the Authority recommended keeping the existing MRLs.

(4) For esfenvalerate, the Authority submitted a reasoned opinion on the existing MRLs in accordance with Article 12(2) of Regulation (EC) No 396/2005 in conjunction with Article 12(1) thereof[(6)]. It proposed to change the residue definition. It recommended lowering the MRLs for head cabbage, linseed, rape seed, mustard seed, gold of pleasure, sugar beet (root), swine (meat, fat, liver and kidney), bovine (meat, liver and kidney), sheep (meat, liver and kidney) and goat (meat, liver and kidney). It concluded that concerning the MRLs for almonds, apples, pears, cherries, plums, strawberries, raspberries, carrots, horseradish, parsley root, radishes, garlic, onions, peppers, cucurbits with edible peel, melons, sweet corn, broccoli, cauliflower, brussels sprouts, lettuce, spinach, parsley, leeks, lentils (dry), barley grain, maize grain, oats grain, rye grain, sorghum grain, wheat grain, spices (seeds), swine (meat, fat, liver and kidney), bovine (meat, fat, liver and kidney), sheep (meat, fat, liver and kidney) and goat (meat, fat, liver and kidney) as well as for cattle milk, sheep milk, goat milk, some information was not available and that further consideration by risk managers was required. As there is no risk for consumers, MRLs for those products should be set in Annex II to Regulation (EC) No 396/2005 at the existing level or the level identified by the Authority. Those MRLs will be reviewed; the review will take into account the information available within two years from the publication of this Regulation. For other products the Authority recommended keeping the existing MRLs.

(5) For fludioxonil, the Authority submitted a reasoned opinion on the existing MRLs in accordance with Article 12(1) of Regulation (EC) No 396/2005[(7)]. It proposed to change the residue definition. As regards fresh herbs, spinach and beet leaves, lettuce, lamb's lettuce, cress, scarole, rocket/rucola, leaves and sprouts of *Brassica* spp., celery, celery leaves, radishes and cucurbits inedible peel, after submitting the opinion referred to in the first sentence, the Authority submitted further opinions concerning the MRLs[(8)(9)(10)]. It is appropriate to take those opinions into account. The Authority recommended lowering the MRLs for blueberries, currants (red, black and white), elderberries, gooseberries, kiwi, potatoes, garlic, shallots, tomatoes, peppers, aubergines, cucumbers, gherkins, courgettes, sweet corn, lamb's lettuce, cress, land cress, rocket, rucola, red mustard, leaves and sprouts of *Brassica* spp., witloof, beans (fresh, without pods), asparagus, fennel, poppy seed, sunflower seed, rape seed, soya bean, cotton seed, barley

***Changes to legislation:** There are outstanding changes not yet made to Commission Regulation (EU) No 79/2014. 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*

grain, buckwheat grain, maize grain, millet grain, oats grain, rice grain, rye grain, sorghum grain, wheat grain, sugar beet (roots), poultry meat, cattle milk, sheep milk and goat milk. It concluded that concerning the MRLs for strawberries, cucurbits with inedible peel, celery, bovine (meat, fat, liver and kidney), sheep (meat, fat, liver and kidney) and goat (meat, fat, liver and kidney), some information was not available and that further consideration by risk managers was required. As there is no risk for consumers, MRLs for those products should be set in Annex II to Regulation (EC) No 396/2005 at the existing level or the level identified by the Authority. Those MRLs will be reviewed; the review will take into account the information available within two years from the publication of this Regulation. For other products the Authority recommended keeping the existing MRLs.

(6) For thiobencarb, the Authority submitted a reasoned opinion in accordance with Article 12(1) of Regulation (EC) No 396/2005[(11)]. It proposed to change the residue definition.

(7) The non-inclusion of thiobencarb in Annex I to Directive 91/414/EEC is provided for in Commission Decision 2008/934/EC[(12)]. All existing authorisations for plant protection products containing the active substance thiobencarb have been revoked. In accordance with Article 17 of Regulation (EC) No 396/2005 in conjunction with Article 14(1)(a) thereof the MRLs set out for those active substances in Annexes II and III should therefore be deleted. 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.

(8) As regards products for which neither relevant authorisations nor import tolerances were reported at Union level nor Codex MRLs were available, the Authority concluded that further consideration by risk managers was required. Taking into account the current scientific and technical knowledge, MRLs for those products should be set at the specific limit of determination or at the default MRL in accordance with Article 18(1)(b) of Regulation (EC) No 396/2005.

(9) Based on the reasoned opinions of the Authority 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) Regulation (EC) No 396/2005 should therefore be amended accordingly.

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

(12) In order to allow for the normal marketing, processing and consumption of products, this Regulation should provide for a transitional arrangement for products which have been lawfully produced before the modification of the MRLs and for which information shows that a high level of consumer protection is maintained.

(13) 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.

Changes to legislation: *There are outstanding changes not yet made to Commission Regulation (EU) No 79/2014. 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*

(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,

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

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 19 August 2014.

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, however, apply from 19 August 2014.

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

Done at Brussels, 29 January 2014.

For the Commission

The President

José Manuel BARROSO

***Changes to legislation:** There are outstanding changes not yet made to Commission Regulation (EU) No 79/2014. 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, III and V to Regulation (EC) No 396/2005 are amended as follows:

(1) Annex II is amended as follows:

(a) the columns for bifenazate, chlorpropham and 'fenvalerate and esfenvalerate (sum of RR & SS isomers)' 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]	**Bifenazate (bifenazate plus bifenazate-diazene) (F)**	**Chlorpropham (F) (R)**	**Fenvalerate (any ratio of constituent isomers (RR, SS, RS & SR) including esfenvalerate) (F) (R)**
(1)	(2)	(3)	(4)	(5)
0100000	1. **FRUIT FRESH OR FROZEN NUTS**		**0,01**[b]	
0110000	(i) **Citrus fruit**	0,9		0,02[b]
0110010	Grapefruit (Shaddocks, pomelos, sweeties, tangelo (except mineola), ugli and other hybrids)			
0110020	Oranges (Bergamot, bitter orange, chinotto and other hybrids)			
0110030	Lemons (Citron, lemon, Buddha's			