Commission Regulation (EU) 2020/749 of 4 June 2020 amending Annex III to Regulation (EC) No 396/2005 of the European Parliament and of the Council as regards maximum residue levels for chlorate in or on certain products (Text with EEA relevance)

COMMISSION REGULATION (EU) 2020/749

of 4 June 2020

amending Annex III to Regulation (EC) No 396/2005 of the European Parliament and of the Council as regards maximum residue levels for chlorate 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) and Article 16(1)(a) thereof,

Whereas:

(1) According to Commission Decision 2008/865/EC[(2)] all authorisations for plant protection products containing chlorate have been revoked following the non-inclusion of chlorate in Annex I to Council Directive 91/414/EEC[(3)].

(2) No specific maximum residue levels (MRLs) have been set for chlorate and, as this substance has not been included in Annex IV to Regulation (EC) No 396/2005, currently the default MRL of 0,01 mg/kg applies to all food and feed commodities included in Annex I to Regulation (EC) No 396/2005.

(3) Apart from its former use in plant protection products, chlorate is also a substance that is formed as by-product resulting from the use of chlorine disinfectants in food and drinking water processing. These uses lead to the current situation of detectable residues of chlorate in food.

(4) The European Food Safety Authority ('the Authority') collected between 2014 and 2018 monitoring data to investigate the presence of residues of chlorate in food and drinking water. Those data indicated that chlorate residues are present at levels that frequently exceed the default MRL of 0,01 mg/kg and that the levels vary depending on the source and the product. It follows from those findings that even if good practices are used, it is currently not possible to achieve levels of chlorate residues compliant with the current MRL of 0,01 mg/kg.

(5) The Authority adopted a scientific opinion concerning the risks for public health related to the presence of chlorate in food[(4)]. In that opinion the Authority established a tolerable

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daily intake (TDI) of 3 μg/kg body weight per day and an acute reference dose (ARfD) of 36 μg/kg body weight. The Authority concluded that based on the data collected in 2014 the acute dietary exposure to chlorate did not exceed the ARfD. The mean dietary exposures to chlorate in European countries exceeded the TDI in certain subgroups of the population such as infants and young children with mild to moderate iodine deficiency.

(6) In order to bring chlorate levels down and reduce exposure through coordinated action in several relevant and related sectors, a multi-disciplinary action plan was agreed by the Member States in 2017 comprising a set of actions to be taken in parallel, including actions on drinking water, hygiene, and the setting of temporary maximum residue levels for food and feed.

(7) This Regulation addresses the setting of temporary maximum levels in food. For this purpose a large number of occurrence data was collected between 2014 and 2018, both by Member States and by food business operators. The data shows a general trend towards decreasing levels, suggesting that manufacturing practices have already improved to a certain extent. In the specific case of chlorate, for which residues do not stem from pesticide use but result from use of chlorine-based solutions in food processing and drinking water treatment, maximum levels should be set at levels which are 'as low as reasonably achievable' (ALARA principle) by following good manufacturing practices while ensuring at the same time that good hygiene practices remain possible. This approach ensures that food business operators apply measures to prevent and reduce the chlorate levels in food as far as possible in order to protect public health, but also take into account the need for microbiological safety of food.

(8) Temporary MRLs for chlorate according to the ALARA principle are based on the 95th percentile of the occurrence data, taking into account the use of legitimately treated drinking water in food processing.The temporary MRLs should be reviewed at the latest within five years of publication of this Regulation in the light of possible developments in the area of hygiene, of drinking water, further progress made by food business operators to bring chlorate levels down,or whenever new information and data become available that would warrant an earlier review.

(9) The Commission consulted the European Union reference laboratories on appropriate limits of determination (LODs) for chlorate residues in certain specific commodties.

(10) Based on the scientific opinion of the Authority and taking into account the factors relevant to the matter under consideration, the proposed MRLs fulfil the requirements of Article 14(2) of Regulation (EC) No 396/2005.

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

(12) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS REGULATION:

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Article 1

Annex III to Regulation (EC) No 396/2005 is amended in accordance with the Annex to this Regulation.

Article 2

The temporary MRLs for chlorate shall be reviewed not later than 8 June 2025.

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*.

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

Done at Brussels, 4 June 2020.

For the Commission

The President

Ursula VON DER LEYEN

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ANNEX

In Part A of Annex III to Regulation (EC) No 396/2005 the following column for chlorate is added:

'Pesticide residues and maximum residue levels (mg/kg)

Code number	**Groups and examples of individual products to which the MRLs apply (a)**	**Chlorate (A)**
(1)	**(2)**	**(3)**
0100000	**FRUITS, FRESH or FROZEN; TREE NUTS**	
0110000	**Citrus fruits**	**0,05**
0110010	Grapefruits	
0110020	Oranges	
0110030	Lemons	
0110040	Limes	
0110050	Mandarins	
0110990	Others (2)	
0120000	**Tree nuts**	**0,1**
0120010	Almonds	
0120020	Brazil nuts	
0120030	Cashew nuts	
0120040	Chestnuts	
0120050	Coconuts	
0120060	Hazelnuts/cobnuts	
0120070	Macadamias	
0120080	Pecans	
0120090	Pine nut kernels	
0120100	Pistachios	
0120110	Walnuts	
0120990	Others (2)	
0130000	**Pome fruits**	**0,05**
0130010	Apples	
0130020	Pears	
0130030	Quinces	
0130040	Medlars	

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0130050		Loquats/Japanese medlars	
0130990		Others (2)	
0140000		**Stone fruits**	**0,05**
0140010		Apricots	
0140020		Cherries (sweet)	
0140030		Peaches	
0140040		Plums	
0140990		Others (2)	
0150000		**Berries and small fruits**	**0,05**
0151000	(a)	**grapes**	
0151010		Table grapes	
0151020		Wine grapes	
0152000	(b)	**strawberries**	
0153000	(c)	**cane fruits**	
0153010		Blackberries	
0153020		Dewberries	
0153030		Raspberries (red and yellow)	
0153990		Others (2)	
0154000	(d)	**other small fruits and berries**	
0154010		Blueberries	
0154020		Cranberries	
0154030		Currants (black, red and white)	
0154040		Gooseberries (green, red and yellow)	
0154050		Rose hips	
0154060		Mulberries (black and white)	
0154070		Azaroles/ Mediterranean medlars	
0154080		Elderberries	
0154990		Others (2)	