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COMMISSION REGULATION (EU) No …/..

of XXX

amending and correcting Annex II to Regulation (EC) No 1333/2008 of the European Parliament and of the Council as regards the use of certain colours in flavoured ripened cheese

(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 1333/2008 of the European Parliament and of the Council of 16 December 2008 on food additives[[1]](#footnote-1), and in particular Article 10(3) thereof,

Whereas:

1. Annex II to Regulation (EC) No 1333/2008 lays down a Union list of food additives approved for use in foods and their conditions of use.
2. That list may be amended in accordance with the common procedure referred to in Article 3(1) of Regulation (EC) No 1331/2008 of the European Parliament and of the Council[[2]](#footnote-2), either on the initiative of the Commission or following an application.
3. The Union list of food additives was established based on food additives permitted for use in foods in accordance with European Parliament and Council Directive 94/35/EC[[3]](#footnote-3), European Parliament and Council Directive 94/36/EC[[4]](#footnote-4) and European Parliament and Council Directive 95/2/EC[[5]](#footnote-5) and after reviewing their compliance with Articles 6, 7 and 8 of Regulation (EC) No 1333/2008. The Union list includes the food additives on the basis of the categories of food to which they may be added to.
4. Annex V Part 1 to Directive 94/36/EC lists colours which may be used in foodstuffs mentioned in Annex V Part 2 and in all other foodstuffs other than those listed in Annexes II and III to that Directive.
5. Before the esbalishment of the Union list the stakeholders were requested to provide information about the use and the need to use the food colours as listed in Annex V to Directive 94/36/EC. At that time no information was provided about the use and the need to use food colours in flavoured ripened cheese as green and red pesto cheese, wasabi cheese and green marbled herb cheese.
6. An application for correction of the Union list to continue the use of copper complexes of chlorophylls and chlorophyllins (E 141) and paprika extract, capsanthin, capsorubin (E 160c) and an application for authorisation of the use of cochineal, carminic acid, carmines (E 120) and annatto, bixin, norbixin (E 160b) in certain flavoured ripened cheeses was submitted on 2 April 2013 and was made available to the Member States pursuant to Article 4 of Regulation (EC) No 1331/2008.
7. Flavoured ripened cheese is not listed in Annexes II, III to Directive 94/36/EC, therefore, the Union list of food additives should be corrected to authorise the use of copper complexes of chlorophylls and chlorophyllins (E 141) and paprika extract, capsanthin, capsorubin (E 160c) in specific flavoured ripened cheeses as requested.
8. Cochineal, carminic acid, carmines (E 120) and annatto, bixin, norbixin (E 160b) are currently approved for use in certain ripened cheeses. The same technological need was identified also for the use of cochineal, carminic acid, carmines in red pesto cheese and annatto, bixin, norbixin in red and green pesto cheese.
9. The current approvals of cochineal, carminic acid, carmines and annatto, bixin, norbixin take into account the Acceptable Daily Intakes (ADI) established by the Scientific Committee for Food in 1983 and 1979 respectively. The Report from the Commission on Dietary Food Additive Intake in the European Union[[6]](#footnote-6) concluded that cochineal, carminic acid, carmines needed no further examination since the theoretical conservative intake estimate based on actual food consumption data combined with the maximum permitted usage levels (Tier 2) did not exceed the ADI for both adults and children. The same conclusion was reached for annatto, bixin, norbixin for adults, however, for children it was concluded that further detailed intake estimation using actual national food consumption data combined with the actual usage levels of the additive (Tier 3) was needed since the ADI was exceeded using Tier 2 approach.
10. Red and green pesto cheeses are niche products representing a small volume in the total cheese market. It is not expected that the authorisation of use of cochineal, carminic acid, carmines in red pesto cheese and annatto, bixin, norbixin in red and green pesto cheese would have a significant impact on the total exposure to both colours.
11. Pursuant to Article 3(2) of Regulation (EC) No 1331/2008, the Commission is to seek the opinion of the Authority in order to update the Union list of food additives set out in Annex II to Regulation (EC) No 1333/2008, except where such update is not liable to have an effect on human health. Since the extension of use of cochineal, carminic acid, carmines to red pesto cheese and annatto, bixin, norbixin to red and green pesto cheese constitute an update of that list which is not liable to have an effect on human health, it is not necessary to seek the opinion of the Authority.
12. Therefore, Annex II to Regulation (EC) No 1333/2008 should be amended accordingly.
13. 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

Annex II to Regulation (EC) No 1333/2008 is amended in accordance with the Annex to this Regulation.

*Article 2*

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,

*For the Commission*

*The President*

*José Manuel BARROSO*

**ANNEX**

In Part E of Annex II to Regulation (EC) No 1333/2008, in food subcategory 1.7.2 'Ripened cheese', the entries for E 120, E 141, E 160b and E 160c are replaced by the following:

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
|  | "E 120 | Cochineal, Carminic acid, Carmines | 125 |  | only red marbled and red pesto cheese |
|  | E 141 | Copper complexes of chlorophylls and chlorophyllins | *quantum satis* |  | only *sage Derby cheese*, green and red pesto cheese, wasabi cheese and green marbled herb cheese |
|  | E 160b | Annatto, Bixin, Norbixin | 50 |  | only *red Leicester* cheese and red and green pesto cheese |
|  | E 160c | Paprika extract, capsanthin, capsorubin | *quantum satis* |  | only ripened range, yellow and broken-white cheese and green and red pesto cheese" |

1. OJ L 354, 31.12.2008, p. 16. [↑](#footnote-ref-1)
2. Regulation (EC) No 1331/2008 of the European Parliament and of the Council of 16 December 2008 establishing a common authorisation procedure for food additives, food enzymes and food flavourings (OJ L 354, 31.12.2008, p. 1). [↑](#footnote-ref-2)
3. European Parliament and Council Directive 94/35/EC of 30 June 1994 on sweeteners for use in foodstuffs (OJ L 237, 10.9.1994, p. 3). [↑](#footnote-ref-3)
4. European Parliament and Council Directive 94/36/EC of 30 June 1994 on colours for use in foodstuffs (OJ L 237, 10.9.1994, p. 13). [↑](#footnote-ref-4)
5. European Parliament and Council Directive 95/2/EC of 20 February 1995 on food additives other than colours and sweeteners (OJ L 61, 18.3.1995, p. 1). [↑](#footnote-ref-5)
6. COM(2001) 542 final. [↑](#footnote-ref-6)