COUNCIL OF THE EUROPEAN UNION

Brussels, 25 January 2012

5726/12

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AGRI 43

COVER NOTE

from: European Commission
date of receipt: 20 January 2012
to: Secretariat General of the Council
No Cion doc.: D017858/02
Subject: COMMISSION REGULATION (EU) No .../.. of XXX amending Annex II to Regulation (EC) No 1333/2008 of the European Parliament and of the Council as regards the conditions of use and the use levels for aluminium-containing food additives

Delegations will find attached Commission document D017858/02.

Enc.: D017858/02
COMMISSION REGULATION (EU) No …/..

of XXX

amending Annex II to Regulation (EC) No 1333/2008 of the European Parliament and of the Council as regards the conditions of use and the use levels for aluminium-containing food additives

(Text with EEA relevance)
COMMISSION REGULATION (EU) No ../..

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amending Annex II to Regulation (EC) No 1333/2008 of the European Parliament and of the Council as regards the conditions of use and the use levels for aluminium-containing food additives

(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\(^1\), 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) The European Food Safety Authority (EFSA), in its opinion of 22 May 2008\(^2\) recommended to lower the tolerable weekly intake (TWI) for aluminium to 1 mg/kg body weight/week. In addition, EFSA considers that the revised TWI is generally exceeded for high consumers, especially children, in a significant part of the Union.

(3) EFSA considers that the major route of exposure to aluminium compounds for the general population is through food, both as a consequence of the natural occurrence of aluminium in food and the use of aluminium compounds in food processing, including food additives. However, EFSA is not able to quantify the respective role of each source due to the design of the human dietary studies and the analytical methods used, which only determine the total aluminium content in food.

(4) Annex II to Regulation (EC) No 1333/2008 authorises the use of aluminium-containing food additives in a wide number of foodstuffs, often at very high maximum permitted levels or without any indication of the maximum concentration levels (Quantum satis).


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Regulation (EC) No 1333/2008 of the European Parliament and of the Council authorise the use of some colours that may contain aluminium in the form of lakes in a wide number of foodstuffs, in general without any indication of the maximum concentration levels of aluminium in the lakes.

(6) It is therefore appropriate to amend the current conditions of use and reduce the use levels for aluminium-containing food additives, including aluminium lakes, to ensure that the revised TWI is not exceeded.

(7) Since manufacturing practices using higher amounts of food additives have been applied since decades, a transitional period should be provided to allow the food business operators to adapt to the new requirements laid down in this Regulation for the uses of aluminium-containing food additives others than lakes.

(8) Labelling of aluminium content in aluminium lakes not intended for sale to the final consumer is currently optional. It should become mandatory within 12 months from the entry into force of this Regulation in order to allow food manufacturers using aluminium lakes to adapt to the proposed maximum limits for such lakes. Therefore a longer transitional period than 12 months should be provided to allow the food business operators to adapt to the new requirements laid down in this Regulation.

(9) Annex II as amended by Commission Regulation (EU) No 1129/2011 is in principle applicable from 1 June 2013. In order to facilitate the effective implementation of Annex II, it is appropriate to insert in the Annex the periods of application that do not start on 1 June 2013 and are posterior to the entry into force of this Regulation.

(10) The aluminium containing carrier bentonite, E 558 is not used any more according to information submitted by food manufacturers. Therefore, it is not included in Part I of Annex III to Regulation (EC) No 1333/2008 and should also be deleted from the list of all additives in Part B of Annex II to Regulation (EC) No 1333/2008.

(11) The aluminium containing food additives calcium aluminium silicate E 556 and aluminium silicate (kaolin) E 559 should be deleted from the list of all additives in Part B of Annex II to Regulation (EC) No 1333/2008, since these substances can be replaced by other food additives.

(12) 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 1333/2008 is amended in accordance with the Annex to this Regulation.

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Article 2

1. Foods not complying with the provisions laid down in this Regulation applicable from 1 February 2014 that have been lawfully placed on the market before 1 February 2014, may continue to be marketed until their date of minimum durability or use-by date.

2. By derogation from paragraph 1, foods containing aluminium lakes and not complying with the provisions laid down in this Regulation applicable from 1 August 2014, that have been lawfully placed on the market before 1 August 2014, may continue to be marketed until their date of minimum durability or use-by date.

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 the Member States.

Done at Brussels,


*For the Commission*
*The President*
*José Manuel BARROSO*