Commission Regulation (EU) No 298/2014 of 21 March 2014 amending Annex II to Regulation (EC) No 1333/2008 of the European Parliament and of the Council and the Annex to Commission Regulation (EU) No 231/2012 as regards Magnesium dihydrogen diphosphate for use as raising agent and acidity regulator (Text with EEA relevance)

COMMISSION REGULATION (EU) No 298/2014

of 21 March 2014

amending Annex II to Regulation (EC) No 1333/2008 of the European Parliament and of the Council and the Annex to Commission Regulation (EU) No 231/2012 as regards Magnesium dihydrogen diphosphate for use as raising agent and acidity regulator

(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), Article 14 and Article 30(5) thereof,

Having regard to 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[(2)], and in particular Article 7(5) 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) Commission Regulation (EU) No 231/2012[(3)] lays down specifications for food additives listed in Annexes II and III to Regulation (EC) No 1333/2008.

(3) The Union list and the specifications may be updated in accordance with the common procedure referred to in Article 3(1) of Regulation (EC) No 1331/2008 either on the initiative of the Commission or following an application

(4) An application for authorisation of the use of Magnesium dihydrogen diphosphate as a raising agent and acidity regulator in certain food categories was submitted on 7 April 2011 and was made available to the Member States.

(5) Phosphoric acid - phosphates - di - tri- and polyphosphates (E 338 -452) are authorised for use in fine bakery ware as raising agents. Diphosphates (E 450), specified in Regulation (EU) No 231/2012, may be used as an alternative to Sodium aluminium phosphate (E541) thus reducing the aluminium content of processed foods. The currently specified diphosphates have an astringent aftertaste (‘pyro-taste’) and may contribute to the total sodium content of food.

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EU) No 298/2014. (See end of Document for details)*

(6) Specifications for Magnesium dihydrogen diphosphate should be set out in the Annex to Regulation (EU) No 231/2012, since the substance could be used as an alternative to the other diphosphates in order to reduce the 'pyro-taste' and to avoid increasing the sodium level of a food. Therefore, the use of Magnesium dihydrogen diphosphatese should be authorized in the categories 6.2.1: Flours, only self-raising flour; 6.5: Noodles; 6.6: Batters; 7.1: Bread and rolls and 7.2: Fine bakery wares. The number E 450 (ix) should be assigned to Magnesium dihydrogen diphosphate.

(7) Similar substances, with equal or higher magnesium content compared to Magnesium dihydrogen diphosphate, the mono- and dibasic magnesium salts of orthophosphoric acid (E343i; E343ii) are already authorised for use in the same food categories. The inclusion of Magnesium dihydrogen diphosphate as an alternative diphosphate in the annex of Regulation (EU) No 231/2012 and its subsequent use in foodstuffs will not result in an increase of phosphorous or magnesium intake. Therefore, the establishment of the specification and the specific authorisation of the use of Magnesium dihydrogen diphosphate (E 450 (ix)) as a raising agent and acidity regulator is not considered of safety concern.

(8) Pursuant to Article 3(2) of Regulation (EC) No 1331/2008, the Commission is to seek the opinion of the European Food Safety Authority in order to update the Union list of food additives set out in Annex II to Regulation (EC) No 1333/2008, except where the update in question is not liable to have an effect on human health. Since the inclusion of Magnesium dihydrogen diphosphate in the annex of EC regulation 231/2012 and the authorisation of the use of Magnesium dihydrogen diphosphate (E 450 (ix)) as a raising agent is not considered of safety concern it is not necessary to seek the opinion of the European Food Safety Authority.

(9) Regulations (EC) No 1333/2008 and (EU) No 231/2012 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,

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

The Annex to Regulation (EU) No 231/2012 is amended in accordance with Annex II to this Regulation.

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, 21 March 2014.

For the Commission

The President

José Manuel BARROSO

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EU) No 298/2014. (See end of Document for details)*

ANNEX I

Annex II to Regulation (EC) No 1333/2008 is amended as follows:

(1) The tabel in point (l) of Part C, is replaced by the following table:

'E-number	**Name**
E 338	Phosphoric acid
E 339	Sodium phosphates
E 340	Potassium phosphates
E 341	Calcium phosphates
E 343	Magnesium phosphates
E 450	Diphosphates[a]
E451	Triphosphates
E 452	Polyphosphates

a E 450 (ix) is not included'

(2) Part E of Annex II to Regulation (EC) No 1333/2008 is amended as follows:

(a) In category 06.2.1 'Flours', the following entry is inserted after the entry E 338 - 452:

	E 450 (ix)	Magnesium dihydrogen diphosphate	15 000	(4)(81)	Only self raising flour
	(81) the total amount of phosphates shall not exceed the maximum level for E 338 - 452				

(b) In category 06.5 'Noodles', the following entry is inserted after the entry E 338 - 452:

	E 450 (ix)	Magnesium dihydrogen diphosphate	2 000	(4)(81)	
	(81) the total amount of phosphates shall not exceed the maximum level for E 338 - 452				

(c) In category 06.6 'Batters', the following entry is inserted after the entry for E 338 - 452:

	E 450 (ix)	Magnesium dihydrogen diphosphate	12 000	(4)(81)	
	(81) the total amount of phosphates shall not exceed the maximum level for E 338 - 452				