Commission Regulation (EU) No 509/2013 of 3 June 2013 amending Annex II to Regulation (EC) No 1333/2008 of the European Parliament and of the Council as regards the use of several additives in certain alcoholic beverages (Text with EEA relevance)

COMMISSION REGULATION (EU) No 509/2013

of 3 June 2013

amending Annex II to Regulation (EC) No 1333/2008 of the European Parliament and of the Council as regards the use of several additives in certain alcoholic beverages

(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 Articles 10(3) and 30(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) That list may be updated 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 of 16 December 2008 establishing a common authorisation procedure for food additives, food enzymes and food flavourings[(2)] either on the initiative of the Commission or following an application.

(3) An application to amend the Union list of food additives was submitted by the National Council of Viticulture and Meadery of Poland on 10 February 2011 in order to allow the use of several additives in certain alcoholic beverages as described in the Polish Decree of 12 May 2011 on manufacturing and bottling of wine products, trade of those products and market organisation[(3)] ('the Polish Decree on wine products').

(4) The alcoholic beverages covered by the Polish Decree on wine products are not covered by Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products[(4)], since they do not fall under one of the categories of grapevine products listed in Annex XIb to that Regulation. Aromatised products covered by the Polish Decree on wine are accordingly also not covered by Council Regulation (EEC) No 1601/91 of 10 June 1991 laying down general rules on the definition, description and presentation of aromatized wines, aromatized wine-based drinks and aromatized wine-product cocktails[(5)].

(5) The use of additives in products covered by Regulation (EC) No 1234/2007 is authorised by Commission Regulation (EC) No 606/2009 of 10 July 2009 laying

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EU) No 509/2013. (See end of Document for details)*

down certain detailed rules for implementing Council Regulation (EC) No 479/2008 as regards the categories of grapevine products, oenological practices and the applicable restrictions[6] and their implementing measures. Those acts do not apply to the alcoholic beverages covered by the Polish Decree on wine products.

(6) However, Article 113d(1) of Regulation (EC) No 1234/2007 provides that the Member States may allow the use of the term 'wine' for products other than those provided in Annex XIb to that Regulation, if it is accompanied by the name of a fruit in the form of a composite name to market products obtained by the fermentation of fruit other than grapes or if it is part of a composite name. In accordance with Article 113d(1) of Regulation (EC) No 1234/2007, Poland allowed the use of the term 'wine' for the alcoholic beverages listed in the Polish Decree on wine products. Therefore, the use of additives in those products should be listed in Annex II to Regulation (EC) No 1333/2008, without prejudice to the rules applicable in the other Member States with regard to the denomination of these products.

(7) Alcoholic beverages listed in the Polish Decree on wine products belong to the food categories listed in Annex II to Regulation (EC) No 1333/2008 as follows:

— Wino owocowe markowe (Mark fruit wine), wino owocowe wzmocnione (fortified fruit wine), wino owocowe aromatyzowane (aromatised fruit wine), wino z soku winogronowego (wine from grape juice) and aromatyzowane wino z soku winogronowego (aromatised wine from grape juice) should be listed in category 14.2.4: 'Fruit wine and made wine' of Annex II to Regulation (EC) No 1333/2008,

— *Nalewka na winie owocowym* (Tincture of fruit wine), *aromatyzowana nalewka na winie owocowym* (aromatised tincture on fruit wine), *nalewka na winie z soku winogronowego* (tincture of wine from grape juice), *aromatyzowana nalewka na winie z soku winogronowego* (aromatised tincture of wine from grape juice), *napój winny owocowy lub miodowy* (fruit or honey-wine based drinks), *aromatyzowany napój winny owocowy lub miodowy* (aromatised fruit or honey-wine based drinks), *wino owocowe niskoalkoholowe* (low alcoholic fruit wine) and *aromatyzowane wino owocowe niskoalkoholowe* (aromatised low alcoholic fruit wine) should be listed in category 14.2.8 of Annex II to Regulation (EC) No 1333/2008: 'Other alcoholic drinks including mixtures of alcoholic drinks with non-alcoholic drinks and spirits with less than 15 % of alcohol'.

(8) The authorisation of the use of additives in the products covered by the Polish Decree on wine products does not lead to an additional exposure of the consumer to those substances and therefore does not raise safety concerns.

(9) Pursuant to Article 3(2) of Regulation (EC) No 1331/2008, the Commission has to seek the opinion of the European Food Safety Authority (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 the update in question is not liable to have an effect on human health. Since the authorisation of the use of several additives in certain alcoholic beverages covered by the Polish Decree on wine products constitutes 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.

(10) Regulation (EC) No 1333/2008 should therefore be amended accordingly.

(11) 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.

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, 3 June 2013.

For the Commission

The President

José Manuel BARROSO

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EU) No 509/2013. (See end of Document for details)*

ANNEX

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

(1) In food category 14.2.4 ‘Fruit wine and made wine’, the entries concerning Groups II and III and additives E 160d, E 242 and E 353 are replaced by the following:

	Group II	Colours at *quantum satis*	*quantum satis*		Excluding *wino owocowe markowe*
	Group III	Colours with combined maximum limit	200		Excluding *wino owocowe markowe*
	E 160d	Lycopene	10		Excluding *wino owocowe markowe*
	E 242	Dimethyl dicarbonate	250	(24)	Only fruit wine, alcohol reduced wine and *wino owocowe markowe*, *wino owocowe wzmocnione*, *wino owocowe aromatyzowane*, *wino z soku winogronowego* and *aromatyzowane wino z soku winogronowego*
	E 353	Metatartaric acid	100		only made wine and *wino z soku winogronowego* and *aromatyzowane wino z soku winogronowego*

(2) In food category 14.2.4 ‘Fruit wine and made wine’, the following entry for E 1105 is added:

	E 1105	Lysozyme	*quantum satis*		only *wino z soku winogronowego* and *aromatyzowane wino z soku winogronowego*

(3) The food category 14.2.8 ‘Other alcoholic drinks including mixtures of alcoholic drinks with non-alcoholic drinks and spirits with less than 15 % of alcohol’ is amended as follows:

(a) the entries concerning Group III, E 123 and E 200-203 are replaced by the following:

	Group III	Colours with combined maximum limit	200		only alcoholic drinks with less than 15 % of alcohol and *nalewka na winie owocowym, aromatyzowana nalewka na winie owocowym, nalewka na winie z soku winogronowego, aromatyzowana nalewka na winie z soku winogronowego, napój winny owocowy lub miodowy, aromatyzowany napój winny owocowy lub miodowy, wino owocowe niskoalkoholowe*