Commission Regulation (EU) No 1166/2012 of 7 December 2012 amending Annex II to Regulation (EC) No 1333/2008 of the European Parliament and of the Council as regards the use of dimethyl dicarbonate (E 242) in certain alcoholic drinks (Text with EEA relevance)

COMMISSION REGULATION (EU) No 1166/2012

of 7 December 2012

amending Annex II to Regulation (EC) No 1333/2008 of the European Parliament and of the Council as regards the use of dimethyl dicarbonate (E 242) in certain alcoholic drinks

(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) That list may be amended in accordance with the procedure referred to in 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)].

(3) Pursuant to Article 3(1) of Regulation (EC) No 1331/2008, the Union list of food additives may be updated either on the initiative of the Commission or following an application.

(4) An application for authorisation of the use of dimethyl dicarbonate (E 242) to all products belonging to category 14.2.8 (‘Other alcoholic drinks including mixtures of alcoholic drinks with non-alcoholic drinks and spirits with less than 15 % of alcohol’), was submitted on 4 October 2011 and has been made available to the Member States.

(5) Dimethyl dicarbonate (E 242) is used for cold sterilisation beverages. It acts against fungi and bacteria and is in particular useful to limit pasteurisation. This use allows an effective preservation of drinks without altering their flavour and taste. In addition a limited pasteurisation will be more cost effective and environmental friendly. The substance is currently authorised for use in several categories of alcoholic and non-alcoholic beverages.

(6) Dimethyl dicarbonate (E 242) was last evaluated by the Scientific Committee on Food in 2001[(3)]. The substance is considered to be of no toxicological concern as at the use level of 250 mg/l it is unstable and breaks down in substances the residues of

which are considered harmless. This implies that this use does not represent a hazard to health. It is therefore appropriate to allow the use of dimethyl dicarbonate (E 242) for the preservation of all products belonging to category 14.2.8 ('Other alcoholic drinks including mixtures of alcoholic drinks with non-alcoholic drinks and spirits with less than 15 % of alcohol').

(7) 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 authorisation of use of dimethyl dicarbonate (E 242) for the preservation of all products belonging to category 14.2.8 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 European Food Safety Authority.

(8) Pursuant to the transitional provisions of Commission Regulation (EU) No 1129/2011 of 11 November 2011 amending Annex II to Regulation (EC) No 1333/2008 of the European Parliament and of the Council by establishing a Union list of food additives[(4)], Annex II establishing the Union list of food additives approved for use in foods and conditions of use applies from 1 June 2013. In order to allow the use of dimethyl dicarbonate (E 242) for the preservation of all products belonging to category 14.2.8 before that date, it is necessary to specify an earlier date of application with regard to that food additive.

(9) Therefore, Annex II to Regulation (EC) No 1333/2008 should 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 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, 7 December 2012.

For the Commission

The President

José Manuel BARROSO