Commission Regulation (EU) No 1148/2012 of 4 December 2012 amending Annex II to Regulation (EC) No 1333/2008 of the European Parliament and of the Council as regards the use of sulphur dioxide — sulphites (E 220-228) and propane-1, 2-diol alginate (E 405) in fermented grape must-based drinks (Text with EEA relevance)

COMMISSION REGULATION (EU) No 1148/2012

of 4 December 2012

amending Annex II to Regulation (EC) No 1333/2008 of the European Parliament and of the Council as regards the use of sulphur dioxide — sulphites (E 220-228) and propane-1, 2-diol alginate (E 405) in fermented grape must-based 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) and Article 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 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 1333/2008, 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 sulphur dioxide — sulphites (E 220-228) and propane-1, 2-diol alginate (E 405) was submitted on 30 June 2011 and has been made available to the Member States.

(5) There is a technological need for the use of sulphur dioxide — sulphites (E 220-228) and propane-1, 2-diol alginate (E 405) in fermented grape must-based drinks. Sulphur dioxide — sulphites (E 220-228) are added to stop oxidation and inhibit the growth of micro-organisms. It also prevents the growth of unwanted yeasts during the second fermentation in bottles. Propane-1, 2-diol alginate (E 405) are added to stabilise the foam, so that the carbon dioxide bubbles do not dissipate, making for a creamier and longer-lasting head.

(6) Acceptable daily intakes have been established by the Scientific Committee for Food for sulphur dioxide — sulphites (E 220-228)[(3)] and for propane-1, 2-diol alginate (E

405)[4]. Fermented grape must-based drinks are alcoholic beverages which due to their properties are comparable to other alcoholic beverages such as beer and malt beverages. Consumption of these drinks can thus be considered as an alternative to the consumption of other alcoholic beverages, in particular beer and malt beverages. The additional exposure to sulphur dioxide — sulphites (E 220-228) and to propane-1, 2-diol alginate (E 405) based on this new use will remain limited and will not lead to an increase of the overall intake. It is therefore appropriate to allow the use of sulphur dioxide — sulphites (E 220-228) as preservatives and of propane-1, 2-diol alginate (E 405) as a foam stabiliser in fermented grape must-based drinks.

(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 sulphur dioxide — sulphites (E 220-228) as preservatives and of propane-1, 2-diol alginate (E 405) as a foam stabiliser in fermented grape must-based drinks 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[5] the list of food additives set out in Annex II to Regulation (EC) No 1333/2008 applies in principle from 1 June 2013. In order to allow the use of sulphur dioxide — sulphites (E 220-228) and of propane-1, 2-diol alginate (E 405) in fermented grape must-based drinks before that date, it is necessary to specify an earlier date of application with regard to this use of those food additives.

(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, 4 December 2012.

For the Commission

The President

José Manuel BARROSO