



2024/2856

13.11.2024

COMMISSION REGULATION (EU) 2024/2856

of 12 November 2024

amending Annex I to Regulation (EC) No 1334/2008 of the European Parliament and of the Council as regards the removal of the flavouring substance Benzene-1,2-diol (FL No. 04.029) from the Union list

(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 1334/2008 of the European Parliament and of the Council of 16 December 2008 on flavourings and certain food ingredients with flavouring properties for use in and on foods and amending Council Regulation (EEC) No 1601/91, Regulations (EC) No 2232/96 and (EC) No 110/2008 and Directive 2000/13/EC⁽¹⁾, and in particular Article 11(3) 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(4) thereof,

Whereas:

- (1) Annex I to Regulation (EC) No 1334/2008 lays down a Union list of flavourings and source materials approved for use in and on foods and their conditions of use.
- (2) Commission Implementing Regulation (EU) No 872/2012⁽³⁾ adopted the Union list of flavouring substances and introduced that list in Part A of Annex I to Regulation (EC) No 1334/2008.
- (3) That list 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 submitted by a Member State or by an interested party.
- (4) The Union list of flavourings and source materials laid down in Annex I to Regulation (EC) No 1334/2008 contains Benzene-1,2-diol (FL No. 04.029), which was listed on the basis of a safety assessment by the Scientific Committee for Food.
- (5) On 28 September 2023, the European Food Safety Authority ('the Authority'), adopted opinions on the renewal of the authorisations for Zesti Smoke code 10 (SF-002)⁽⁴⁾, Smoke Concentrate 809045 (SF-003)⁽⁵⁾, SmokEz C-10 (SF-005)⁽⁶⁾ and SmokEz Enviro-23 (SF-006)⁽⁷⁾ as smoke flavouring primary products containing Benzene-1,2-diol (FL No. 04.029). In its opinions, the Authority considered that Benzene-1,2-diol (FL No. 04.029) raises a safety concern as its genotoxicity was identified *in vivo* upon oral administration.

⁽¹⁾ OJ L 354, 31.12.2008, p. 34, ELI: <http://data.europa.eu/eli/reg/2008/1334/oj>.

⁽²⁾ OJ L 354, 31.12.2008, p. 1, ELI: <http://data.europa.eu/eli/reg/2008/1331/oj>.

⁽³⁾ Commission Implementing Regulation (EU) No 872/2012 of 1 October 2012 adopting the list of flavouring substances provided for by Regulation (EC) No 2232/96 of the European Parliament and of the Council, introducing it in Annex I to Regulation (EC) No 1334/2008 of the European Parliament and of the Council and repealing Commission Regulation (EC) No 1565/2000 and Commission Decision 1999/217/EC (O) L 267, 2.10.2012, p. 1, ELI: http://data.europa.eu/eli/reg_impl/2012/872/oj.

⁽⁴⁾ Scientific opinion on the renewal of the authorisation of Zesti Smoke Code 10 (SF-002) as a smoke flavouring Primary Product. *EFSA Journal* 2023; 21(11): 8364.

⁽⁵⁾ Scientific opinion on the renewal of the authorisation of Smoke Concentrate 809045 (SF-003) as a smoke flavouring Primary Product. *EFSA Journal* 2023; 21(11): 8365.

⁽⁶⁾ Scientific opinion on the renewal of the authorisation of SmokEz C-10 (SF-005) as a smoke flavouring Primary Product. *EFSA Journal* 2023; 21(11): 8367.

⁽⁷⁾ Scientific opinion on the renewal of the authorisation of SmokEz Enviro-23 (SF-006) as a smoke flavouring Primary Product. *EFSA Journal* 2023; 21(11): 8368.

- (6) In accordance with Article 4, point (a), of Regulation (EC) No 1334/2008, only flavourings that, based on available scientific evidence, do not pose a safety risk to consumer health may be placed on the market. Benzene-1,2-diol (FL No. 04.029) should therefore be removed from the Union list of flavouring substances.
- (7) Regulation (EC) No 1334/2008 should therefore be amended.
- (8) Taking into consideration the low use of this flavouring substance and in order to ensure a smooth transition from the rules existing prior to this Regulation, foods to which Benzene-1,2-diol (FL No. 04.029) has been added and which have been placed on the market in the Union or which are in transit from third countries to the Union before the entry into force of this Regulation should be allowed to be marketed in the Union until their date of minimum durability or use-by date. The transitional measure should not apply to the substance itself and to preparations to which this substance has been added and which are not intended to be consumed as such, as the manufacturers of food products that use those preparations as ingredients know their composition when they use them.
- (9) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS REGULATION:

Article 1

Amendments to Regulation (EC) No 1334/2008

Annex I to Regulation (EC) No 1334/2008 is amended in accordance with the Annex to this Regulation.

Article 2

Transitional measures

1. Foods to which Benzene-1,2-diol (FL No. 04.029) has been added and which were lawfully placed on the market before the entry into force of this Regulation may continue to be marketed until their date of minimum durability or use-by date.
2. Foods imported into the Union to which Benzene-1,2-diol (FL No. 04.029) has been added may be marketed until their date of minimum durability or use-by date, if the importer of such food can demonstrate that they were dispatched from the third country concerned and were in transit to the Union before the entry into force of this Regulation.
3. Paragraphs 1 and 2 shall not apply to Benzene-1,2-diol and to preparations containing this substance not intended to be consumed as such.

For the purposes of this paragraph, 'preparations' means mixtures of flavourings or mixtures of one or more flavourings with other food ingredients, such as food additives, enzymes or carriers, to facilitate their storage, sale, standardisation, dilution or dissolution.

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, 12 November 2024.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX

In Part A of Annex I to Regulation (EC) No 1334/2008, the following entry is deleted:

'04.029	Benzene-1,2-diol	120-80-9		680				SCF/CoE'
---------	------------------	----------	--	-----	--	--	--	----------