

*This draft has not been adopted or endorsed by the European Commission. Any views expressed are the preliminary views of the Commission services and may not in any circumstances be regarded as stating an official position of the Commission. The information transmitted is intended only for the Member State or entity to which it is addressed for discussions and may contain confidential and/or privileged material.*

**Draft COMMISSION REGULATION (EU) .../...**

**of XXX**

**amending Annex II to Regulation (EC) No 1333/2008 of the European Parliament and of the Council as regards the use of phosphoric acid – phosphates – di – tri – and polyphosphates (E 338-452) in frozen vertical meat spits**

(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<sup>1</sup>, 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 food 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<sup>2</sup>, either on the initiative of the Commission or following an application.
- (3) On 28 August 2015 an application was submitted for the authorisation of the use of phosphoric acid, phosphates, diphosphates, triphosphates and polyphosphates ('phosphates') as a stabiliser and a humectant in frozen vertical meat spits falling under the food category 08.2 'Meat preparations as defined by Regulation (EC) No 853/2004' in Part E of Annex II to Regulation (EC) No 1333/2008. The application was subsequently made available to the Member States pursuant to Article 4 of Regulation (EC) No 1331/2008.
- (4) The use of phosphates is required for a partial extraction and breakdown of meat proteins to form a protein film on vertical meat spits to bond meat pieces together in order to ensure homogenous freezing and roasting. Furthermore, phosphates ensure that meat remains juicy during thawing and that vertical meat spits remain stable. Such technological need was recognised for frozen vertical rotating meat spits made of

<sup>1</sup> OJ L 354, 31.12.2008, p. 16.

<sup>2</sup> 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 (OJ L 354, 31.12.2008, p. 1).

sheep, lamb, veal and/or beef treated with liquid seasoning or from poultry meat (treated with or without liquid seasoning) used alone and/or combined as well as sliced and/or minced and designed to be cooked by a food business operator. Thoroughly roasted meat strips are then consumed by the final consumer.

- (5) Recital 7 of Regulation (EC) No 1333/2008 stipulates that the approval of food additives should also take into account other factors relevant to the matter under consideration including, inter alia, traditional factors. *Gyros* a traditional food in certain Member States does not require the use of phosphates. Therefore, it is appropriate to exclude *gyros* from the applicability of the provision for the use of phosphates in frozen vertical meat spits.
- (6) 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. Safety of phosphates was evaluated by the Scientific Committee for Food which established the Maximum Tolerable Daily Intake of 70 mg/kg body weight expressed as phosphorus<sup>3</sup>. Phosphates are authorised for use as food additives in a wide variety of foods including meat products and certain meat preparations. Thus it is not expected that the extension of use to frozen vertical meat spits will have a significant impact on the overall exposure to phosphates. In order to limit further exposure to added phosphates the extension of use should be restricted only to the frozen vertical meat spits for which the technological need was identified. Therefore, the extended use of these additives constitutes an update of the Union list which is not liable to have an effect on human health and it is not necessary to seek the opinion of the Authority.
- (7) Annex II to Regulation (EC) No 1333/2008 should be amended accordingly.
- (8) 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*

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.

<sup>3</sup>

Reports of the Scientific Committee for Food, Twenty-fifth series (page 13), 1991.

Done at Brussels,

*For the Commission*  
*The President*  
*Jean-Claude JUNCKER*

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### ANNEX

In Part E of Annex II to Regulation (EC) No 1333/2008, in food category 08.2 'Meat preparations as defined by Regulation (EC) No 853/2004', the entry for phosphoric acid – phosphates – di – tri – and polyphosphates (E 338-452) is replaced by the following:

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	E 338-452	Phosphoric acid — phosphates — di — tri — and polyphosphates	5 000	(1) (4)	only <i>breakfast sausages</i> : in this product, the meat is minced in such a way so that the muscle and fat tissue are completely dispersed, so that fibre makes an emulsion with the fat, giving the product its typical appearance; Finnish grey salted Christmas ham, <i>burger meat</i> with a minimum vegetable and/or cereal content of 4 % mixed within the meat, <i>Kasseler</i> , <i>Bräte</i> , <i>Surfleisch</i> , <i>toorvorst</i> , <i>šášlökk</i> , <i>ahjupraad</i> , <i>Bílá klobása</i> , <i>Vinná klobása</i> , <i>Sváteční klobása</i> , <i>Syrová klobása</i> and frozen vertical rotating meat spits made of sheep, lamb, veal and/or beef treated with liquid seasoning or from poultry meat (treated with or without liquid seasoning) used alone and/or combined as well as sliced and/or minced and designed to be cooked by a food business operator and then consumed by the final consumer, except <i>gyros</i>
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