

Time Lines & Transitional Periods of the Union List of Flavourings and Source Materials

The Implementing Regulation establishing the List of Flavouring Substances (Part A of the Union List) has entered into Force and will apply as of 22 April 2013. However, there is a transitional period of 18 months until 22 October 2014, for compliance with all requirements: from this day all provisions stipulated in the Implementing Regulation and the List of Flavouring substances will apply. The application Date for Part B-F of the Union List is 22 October 2016.

Adoption, Publication, Entry into Force and Application of the Regulations

- The Regulations in relation to the Union List (as formally adopted on 1 October 2012 and published in the Official Journal on 2 October 2012) entered into Force on **22 October 2012**:
 - The *Commission Implementing Regulation (EU) No 872/2012 adopting the list of flavouring substances provided for by Regulation (EC) 2232/96, [...] introducing it in Annex I to Regulation (EC) No 1334/2008* [OJ L 267/1], hereinafter referred to as “Implementing Regulation”;
 - The *Commission Regulation (EU) No 873/2012 on transitional measures concerning the Union list of flavourings and source materials set out in Annex I to Regulation (EC) No 1334/2008* [OJ L 267/162], hereinafter referred to as “Regulation on transitional measures”.
- The Regulation on transitional measures shall be binding in its entirety and directly applicable in all Member States, i.e. by **22 October 2012**.
- The date of application of the Implementing Regulation and the Union List Part A will be 6 months after the date of its entry into force, i.e. on **22 April 2013**.

Transitional measures and periods for the Union List Part A: Flavouring Substances

- All flavouring substances listed in the Union List Part A may be used throughout the EU in and on food irrespective of footnotes.
- From the date of application of the Implementing Regulation and the Union List Part A (22 April 2013) there is a transitional period of 18 months for compliance with all requirements until **22 October 2014** at which date article 10 of Regulation (EC) No 1334/2008 applies.
- This means that during this transitional period flavouring substances not included in the List may be placed on the market and used in or on food, i.e. **until 22 October 2014**.
- In addition dedicated transitional measures apply to foods containing flavouring substances which are not included in the List but which are lawfully placed on the market and labelled prior to **22 October 2014**: stocks of foods (including such non-listed flavouring substances) can be sold until their **date of minimum durability (DMD) or use-by date (UBD)**.
- It is our understanding that compounded flavourings are also considered as foods and are covered by the same transitional measures as foods.
- Also all other provisions such as restrictions of use (as indicated in Column 7 of the List for 11 flavouring substances) and compliance with purity requirements (cfr Column 6 of the List) shall apply from **22 October 2014** (i.e. Application of Art. 10 of Regulation (EC) No 1334/2008).
- From **22 October 2014** (application date of Art. 10) only those substances that are listed on the UL Part A can be used in or on food to the exclusion of all other substances.

Transitional measures and periods for the Union List Part B-F: Flavourings & Source Materials (SM)

- This section applies only to those flavourings & SM which require an evaluation and approval according to Art. 9(b) to (f) of the Flavouring Regulation (EC) No 1334/2008:
 - ✓ (b) flavouring preparations referred to in Article 3(2)(d)(ii) of that Regulation;
 - ✓ (c) thermal process flavourings obtained by heating ingredients which fall partially or totally within Article 3(2)(e)(ii) and/or for which the conditions for the production of thermal process flavourings and/or the maximum levels for certain undesirable substances set out in Annex V are not met;
 - ✓ (d) flavour precursors referred to in Article 3(2)(g)(ii);
 - ✓ (e) other flavourings referred to in Article 3(2)(h);
 - ✓ (f) source materials other than food referred to in Article 3(2)(j)(ii).
- For flavourings and SM that were **legally placed on the market** at the time of entry into force of the regulation on transitional measures (i.e. 22 October 2012), the time window for submission of dossiers for evaluation by EFSA is until 22 October 2015.
- **New** flavourings & SM (i.e. those which were not placed on the market before the entry into force date (i.e. 22 October 2012)) can only be introduced onto the market after pre-market approval which requires the submission of a valid dossier (according to the Common Authorisation Procedure – CAP (Regulation (EC) No 1331/2008)), evaluation by EFSA and authorisation by the Commission.
- Parts B to F of the Union List of Flavourings & SM shall apply from **22 October 2016**.
- This means that flavourings & SM not included in the List Part B-F may be placed on the market and used in or on food **until 22 October 2016**.
- From **22 October 2016** (application date of UL Part B-F) only those flavourings & SM that are included in the UL Part B-F can be used in or on food to the exclusion of all others.
- Foods containing flavourings & SM which are lawfully placed on the market or labelled **prior to 22 April 2018** but which do not comply with Parts B to F of the Union List, may be marketed until their **date of minimum durability or use-by date**.

We trust that this Information Letter will clarify any questions related to the Union List and provide you with clarity about the continued legality of selling and marketing flavourings for food in the EU marketplace. Should you have any questions or comments on the above information, please as always feel free to contact us.

EFA Secretariat – 6 March 2013

[Annex: Time line charts \(page 1: UL Part A – page 2: UL Part B-F\)](#)