COMMISSION DECISION

of 26 February 2009

amending Decision 1999/217/EC as regards the register of flavouring substances used in or on foodstuffs

(notified under document number C(2009) 1222)

(Text with EEA relevance)

(2009/163/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 2232/96 of the European Parliament and of the Council of 28 October 1996 laying down a Community procedure for flavouring substances used or intended for use in or on foodstuffs [1], and in particular Article 3(2) thereof,

Whereas:

(1) Regulation (EC) No 2232/96 lays down the procedure for the establishment of rules in respect of flavouring substances used or intended to be used in foodstuffs. That Regulation provides for the adoption of a register of flavouring substances (the register) following notification by the Member States of a list of the flavouring substances which may be used in or in on foodstuffs marketed in their territory and on the basis of scrutiny by the Commission of that notification.

(2) In addition, Regulation (EC) No 2232/96 provides for a programme of evaluation of the flavouring substances contained in the register (the evaluation programme) in order to check if those substances comply within the general criteria for their use set out in the Annex to that Regulation. Regulation (EC) No 2232/96 provides that the persons responsible for placing the flavouring substances on the market are to forward data necessary for their evaluation to the Commission. That Regulation also provides that following completion of the evaluation programme, the list of flavouring substances the use of which is to be authorised to the exclusion of others, is to be adopted.

(3) By Decision 1999/217/EC [2] the Commission adopted, pursuant to Regulation (EC) No 2232/96, a register of flavouring substances used in or on foodstuffs.

(4) Commission Regulation (EC) No 1565/2000 of 18 July 2000 laying down the measures necessary for the adoption of an evaluation programme in application of Regulation (EC) No 2232/96 of the European Parliament and of the Council [3], provides for certain information to be submitted by the person responsible for placing certain flavouring substances contained in the register on the market in order to enable the evaluation of the substance to be carried out.

(5) For 148 substances no information has been submitted nor has the Commission been informed about any intention to still submit information. Therefore, those substances cannot be evaluated in respect of their compliance with the general criteria for the use of flavouring substances set out in Regulation (EC) No 2232/96. Accordingly, it is appropriate to delete those substances from the register.

(6) In application of Regulation (EC) No 2232/96 and Commission Recommendation 98/282/EC of 21 April 1998 on the ways in which the Member States and the signatory States to the Agreement on the European Economic Area should protect intellectual property in connection with the development and manufacture of flavouring substances referred to in Regulation (EC) No 2232/96 of the European Parliament and of the Council [4], for a number of substances, the notifying Member States requested that they should be registered in such a way as to protect the intellectual property rights of the manufacturer.

(7) Protection for those substances, listed in Part B of the register, is limited to a maximum period of five years following the date of receipt of the notification. That period has now expired for the four remaining substances which should consequently be transferred to Part A of the register.

(8) Decision 1999/217/EC should therefore be amended accordingly.

(9) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

[1] OJ L 299, 23.11.1996, p. 1.
[2] OJ L 84, 27.3.1999, p. 1.
[3] OJ L 180, 19.7.2000, p. 8.
[4] OJ L 127, 29.4.1998, p. 32.

HAS ADOPTED THIS DECISION:

Article 1

The Annex to Decision 1999/217/EC is amended in accordance with the Annex to this Decision.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 26 February 2009.

For the Commission
Androulla VASSILIOU
Member of the Commission

ANNEX

1. The first paragraph of the Annex to Decision 1999/217/EC, which reads as follows, should be deleted:

   'The register of chemically defined flavouring substances has been divided into two distinct parts. Part A lists the substances according to their FL numbers. Part B lists those substances for which confidentiality has been requested by a Member State in order to protect the intellectual property rights of the manufacturer.'

2. Part A of the Annex to Decision 1999/217/EC is amended as follows:

   (a) The rows set out in the table for the substances attributed with the following FL numbers are deleted:

01.025	01.062	01.068	01.069	01.071	01.072	01.073	01.074
01.075	01.076	02.053	02.068	02.118	02.129	02.130	02.151
02.163	02.199	02.215	02.232	02.237	02.238	02.244	03.018
03.021	04.060	04.071	04.081	04.083	05.054	05.133	05.135
05.176	05.177	05.200	05.207	05.209	05.210	05.212	05.213
05.214	05.215	06.060	06.068	06.099	06.108	06.113	07.143
07.144	07.145	07.163	07.173	07.174	07.192	07.216	07.241
07.245	07.246	07.252	08.110	08.111	08.126	08.128	09.311
09.384	09.576	09.635	09.654	09.817	09.845	09.853	09.881
09.887	09.896	09.903	09.914	10.041	10.046	10.065	10.071
11.011	11.012	11.013	11.019	11.022	11.024	12.110	12.115
12.186	12.245	12.246	12.247	12.248	12.250	12.260	12.261
12.263	13.036	13.104	13.110	13.121	13.131	13.147	13.156
13.158	13.159	13.164	13.181	13.187	14.090	14.151	14.153
14.156	14.157	14.158	14.162	14.165	14.166	15.041	15.046
15.053	15.059	15.065	15.073	15.075	15.095	15.100	15.101
15.104	15.105	15.117	15.121	15.122	15.123	15.124	16.050
16.064	16.065	16.066	16.067	16.068	16.069	16.070	16.078
16.079	16.084	16.085	17.009				

   (b) The following rows are inserted in the table:

FL No	Chemical group	CAS	Name	Fema	CoE	Einecs	FL No	Synonyms	Systematic name	Comments
'09.929	8	220621-22-7	L-Monomenthyl glutarate	4006			09.929			
03.023	16	1608-72-6	1-Ethoxyethyl-acetate	4069			03.023			
16.083	30	446-71-9	2-(4-Hydroxy-3-methoxyphenyl)-5,7-dihydroxy chromanone				16.083			
07.250	5	3916-64-1	3,5-Heptadien-2-one				07.250'			

3. Part B of the Annex to Decision 1999/217/EC is deleted.