

COMMISSION REGULATION (EU) No 116/2010**of 9 February 2010****amending Regulation (EC) No 1924/2006 of the European Parliament and of the Council with regard to the list of nutrition claims****(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 1924/2006 of the European Parliament and of the Council of 20 December 2006 on nutrition and health claims made on foods ⁽¹⁾, and in particular Article 8(2) thereof,

Whereas:

- (1) Article 8(1) of Regulation (EC) No 1924/2006 states that nutrition claims made on foods shall be only permitted if they are listed in its Annex, which sets out also their conditions of use.
- (2) Regulation (EC) No 1924/2006 also provides that amendments to that Annex shall be adopted where appropriate, after consulting the European Food Safety Authority (EFSA), hereinafter referred to as the Authority.
- (3) Prior to the adoption of Regulation (EC) No 1924/2006, the Commission asked the opinion of the Authority on nutrition claims and their conditions of use concerning omega-3 fatty acids, monounsaturated fat, polyunsaturated fat and unsaturated fat.
- (4) In its opinion adopted on 6 July 2005 ⁽²⁾, the Authority concludes that omega-3 fatty acids, monounsaturated fat, polyunsaturated fat and unsaturated fat have important roles in the diet. Some unsaturated fats such as omega-3 fatty acids are sometimes consumed at a level lower than recommended. Therefore, nutrition claims identifying foods being source of these nutrients, or being rich in these nutrients could help consumers to make healthier choices. However, those nutrition claims were not

included in the list established in the Annex to Regulation (EC) No 1924/2006, as adopted by the European Parliament and the Council, as their conditions of use could not yet be clearly defined.

- (5) Those conditions of use having been clarified, taking also into account an opinion of the Authority on labelling reference intake values for omega-3 and omega-6 fatty acids adopted on 30 June 2009 ⁽³⁾, it is, therefore, advisable to include the claims concerned in the list.
- (6) Concerning the claims 'Source of omega-3 fatty acids' and 'High in omega-3 fatty acids', the conditions of use should distinguish between the two types of omega-3 fatty acids, which have different physiological roles and for which different levels of consumption are recommended. Furthermore, those conditions of use should establish a minimum quantity requested per 100 g and 100 kcal of product in order to ensure that only foods providing a significant amount of omega-3 fatty acids at their level of consumption can bear those claims.
- (7) Concerning the claims 'High in monounsaturated fat', 'High in polyunsaturated fat' and 'High in unsaturated fat', the conditions of use should require a minimum unsaturated fat content in the food, and, consequently, ensure that the claimed amount always corresponds to a significant amount at the level of consumption attainable through a balanced diet.
- (8) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Regulation (EC) No 1924/2006 is amended as set out in the Annex to this Regulation.

⁽¹⁾ OJ L 404, 30.12.2006, p. 9.

⁽²⁾ *The EFSA Journal* (2005) 253, 1-29.

⁽³⁾ *The EFSA Journal* (2009) 1176, 1-11.

Article 2

This Regulation shall enter into force on the 20th day following 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, 9 February 2010.

For the Commission
The President
José Manuel BARROSO

ANNEX

In the Annex to Regulation (EC) No 1924/2006, the following text is added:

'SOURCE OF OMEGA-3 FATTY ACIDS

A claim that a food is a source of omega-3 fatty acids, and any claim likely to have the same meaning for the consumer, may only be made where the product contains at least 0,3 g alpha-linolenic acid per 100 g and per 100 kcal, or at least 40 mg of the sum of eicosapentaenoic acid and docosahexaenoic acid per 100 g and per 100 kcal.

HIGH OMEGA-3 FATTY ACIDS

A claim that a food is high in omega-3 fatty acids, and any claim likely to have the same meaning for the consumer, may only be made where the product contains at least 0,6 g alpha-linolenic acid per 100 g and per 100 kcal, or at least 80 mg of the sum of eicosapentaenoic acid and docosahexaenoic acid per 100 g and per 100 kcal.

HIGH MONOUNSATURATED FAT

A claim that a food is high in monounsaturated fat, and any claim likely to have the same meaning for the consumer, may only be made where at least 45 % of the fatty acids present in the product derive from monounsaturated fat under the condition that monounsaturated fat provides more than 20 % of energy of the product.

HIGH POLYUNSATURATED FAT

A claim that a food is high in polyunsaturated fat, and any claim likely to have the same meaning for the consumer, may only be made where at least 45 % of the fatty acids present in the product derive from polyunsaturated fat under the condition that polyunsaturated fat provides more than 20 % of energy of the product.

HIGH UNSATURATED FAT

A claim that a food is high in unsaturated fat, and any claim likely to have the same meaning for the consumer may only be made where at least 70 % of the fatty acids present in the product derive from unsaturated fat under the condition that unsaturated fat provides more than 20 % of energy of the product.'
