

EN

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Answer given by Mr McGrath
on behalf of the European Commission
(30.4.2026)

Pursuant to the definition of food laid down in Article 2 of the General Food Law Regulation¹, the primary intention of food is to be ‘intended to be or reasonably expected to be ingested by humans’. Energy powders for inhalation are neither intended to be ingested, nor chewed or swallowed via the mouth; instead, these powders are intended or reasonably expected to be inhaled through the nose and therefore cannot be considered food.

Consequently, neither the Food Supplements Directive² nor the Nutrition and Health Claims Regulation³ are applicable.

Such products accordingly fall under the scope of the General Product Safety Regulation⁴ (GPSR), which provides the relevant legal framework as a safety net, for the safety of products.

The Member States are responsible for monitoring the safety of products on their territories and to take enforcement measures or to ban specific products when they consider it necessary. So far Member States have notified measures four times to the Safety Gate⁵, concerning energy sniffing powders to inhale, posing serious risks. The Commission is monitoring these notifications and their follow-ups.

The Commission can act only in certain very specific situations where the risk cannot be dealt with otherwise under EU law and, at the same time, the risk can be eliminated in an effective manner only by adopting measures applicable at EU level⁶. Should the conditions of this EU level action be met, the Commission might consider taking measures on this type of products.

¹ Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety. OJ L 31, 1.2.2002, pp. 1–24.

² Directive 2002/46/EC of the European Parliament and of the Council of 10 June 2002 on the approximation of the laws of the Member States relating to food supplements. OJ L 183, 12.7.2002, pp. 51–57.

³ 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. OJ L 404, 30.12.2006, pp. 9–25.

⁴ Regulation (EU) 2023/988 of the European Parliament and of the Council of 10 May 2023 on general product safety, amending Regulation (EU) No 1025/2012 of the European Parliament and of the Council and Directive (EU) 2020/1828 of the European Parliament and the Council, and repealing Directive 2001/95/EC of the European Parliament and of the Council and Council Directive 87/357/EEC, OJ L 135, 23.5.2023, pp. 1–51.

⁵ <https://ec.europa.eu/safety-gate-alerts/>.

⁶ Article 28 of the General Product Safety Regulation.