Commission Regulation (EU) 2017/786 of 8 May 2017 amending Regulation (EU) No 142/2011 as regards the definitions of fishmeal and fish oil (Text with EEA relevance)

COMMISSION REGULATION (EU) 2017/786

of 8 May 2017

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(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 1069/2009 of the European Parliament and of the Council of 21 October 2009 laying down health rules as regards animal by-products and derived products not intended for human consumption and repealing Regulation (EC) No 1774/2002 (Animal by-products Regulation)[(1)], and in particular Article 31(2) thereof,

Whereas:

(1) Regulation (EC) No 1069/2009 lays down public and animal health rules for animal by-products and derived products, in order to prevent and minimise risks to public and animal health arising from those products. It assigns those products to specific categories which reflect the level of such risks and provides for requirements on their safe use and disposal.

(2) Commission Regulation (EU) No 142/2011[(2)], lays down implementing rules for Regulation (EC) No 1069/2009, including definitions of animal by-products, such as fishmeal and fish oil.

(3) Fishmeal is defined in point 7 of Annex I to Regulation (EU) No 142/2011 as processed animal protein derived from aquatic animals, except sea mammals. The definition of fish oil, which is a product of the same technological process as fishmeal, is provided for in point 9 of that Annex.

(4) In accordance with point 9 of Article 3 of Regulation (EC) No 1069/2009, the term 'aquatic animals' is defined by reference to Article 3(1)(e) of Council Directive 2006/88/EC[(3)] as fish belonging to the superclass *Agnatha* and to the classes *Chondrichthyes* and *Osteichthyes*, mollusc belonging to the Phylum *Mollusca*, and crustacean belonging to the Subphylum *Crustacea*.

(5) The current definition of 'aquatic animals' does not include starfish belonging to the phylum Echinodermata, subphylum *Asterozoa* nor farmed aquatic invertebrates other than molluscs and crustaceans. Consequently, it is currently not possible to use starfish or farmed aquatic invertebrates other than molluscs and crustaceans for the production of fishmeal and fish oil.

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EU) 2017/786. (See end of Document for details)*

(6) Starfish are maritime invertebrates and mostly predators on other marine invertebrates, such as molluscs. They are regularly harvested as a by-product of operations growing bivalve molluscs intended for human consumption without noticeable negative impact on the starfish population. This incidental by-catch represents a potentially valuable source of protein in the feed for porcine animals or poultry.

(7) The polychaete worm *Nereis virens* presents an alternative protein source in the diet of farmed carnivorous fish allowing the reduction of feed cost and of the dependence on fishmeal.

(8) Recital 18 of Regulation (EC) No 1069/2009 explains that aquatic invertebrates which are not covered by the definition in point 9 of Article 3 of that Regulation, such as starfish and farmed aquatic invertebrates other than molluscs and crustaceans, and which pose no risk of disease transmission may be used under the same conditions as the aquatic animals that fall under the definition, for instance for the production of fishmeal.

(9) The existing Union rules on animal by-products and on transmissible spongiform encephalopathies[(4)] do not prohibit the use of starfish and farmed aquatic invertebrates other than molluscs and crustaceans in the production of feed for farmed animals.

(10) As the use of processed animal proteins from wild aquatic animals, such as starfish, and farmed aquatic invertebrates other than molluscs and crustaceans in feed for non-ruminant animals does not represent a higher risk than the use of fishmeal in such feed, it is appropriate to modify the definitions of 'fishmeal' and 'fish oil' in order to include certain aquatic invertebrate animals.

(11) For the purpose of environmental protection and to avoid creating new pressure on wild starfish populations, their use for the production of fishmeal should be restricted to cases where starfish are harvested in a mollusc production area as defined in Directive 2006/88/EC.

(12) The definitions of fishmeal and fish oil set out in points 7 and 9 respectively of Annex I to Regulation (EU) No 142/2011 should be amended accordingly.

(13) The processing standards for fish oil as laid down in Annex X to Regulation (EU) No 142/2011 should be extended by reference to Article 10(l) of Regulation (EC) No 1069/2009 in order to allow the use of aquatic and terrestrial invertebrates other than species pathogenic to humans or animals in the production of fish oil, which would include star fish and farmed aquatic invertebrates other than molluscs and crustaceans.

(14) Annexes I and X to Regulation (EU) No 142/2011 should therefore be amended accordingly.

(15) 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

Annexes I and X to Regulation (EU) No 142/2011 are amended in accordance with the Annex to this Regulation.

***Changes to legislation:** There are currently no known outstanding effects for the Commission Regulation (EU) 2017/786. (See end of Document for details)*

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.

Done at Brussels, 8 May 2017.

For the Commission

The President

Jean-Claude JUNCKER