Commission Regulation (EU) No 68/2013 of 16 January 2013 on the Catalogue of feed materials (Text with EEA relevance)

COMMISSION REGULATION (EU) No 68/2013

of 16 January 2013

on the Catalogue of feed materials

(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 767/2009 of the European Parliament and of the Council of 13 July 2009 on the placing on the market and use of feed, amending European Parliament and Council Regulation (EC) No 1831/2003 and repealing Council Directive 79/373/EEC, Commission Directive 80/511/EEC, Council Directives 82/471/EEC, 83/228/EEC, 93/74/EEC, 93/113/EC and 96/25/EC and Commission Decision 2004/217/EC[(1)], and in particular Article 26(2) and (3) thereof,

Whereas:

(1) Commission Regulation (EU) No 575/2011 of 16 June 2011 on the Catalogue of feed materials[(2)] (the Catalogue) replaced the first version of the Catalogue of feed materials set out in Commission Regulation (EU) No 242/2010 of 19 March 2010 creating the Catalogue of feed materials[(3)].

(2) The appropriate representatives of the European feed business sectors have, in consultation with other parties concerned, in collaboration with the competent national authorities and taking into account relevant experience from opinions issued by the European Food Safety Authority and scientific or technological developments, developed amendments to Regulation (EU) No 575/2011.

(3) These amendments concern new entries of treatment processes and feed materials and improvements of existing entries, in particular for oil and fat derivatives.

(4) Furthermore, the amendments concern maximum contents of chemical impurities resulting from their manufacturing process or from processing aids to be set according to point 1 of Annex I to Regulation (EC) No 767/2009. Specific rules should apply to former foodstuff e.g. production surplus, misshapen products or food with expired use-by date that had been produced in compliance with EU food law.

(5) The conditions set out in Article 26 of Regulation (EC) No 767/2009 are fulfilled.

(6) Given the very high number of amendments to be made to Regulation (EU) No 575/2011, it is appropriate, for reasons of coherence, clarity and simplification, to repeal and replace that Regulation.

Changes to legislation: *There are outstanding changes not yet made to Commission Regulation (EU) No 68/2013. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(7) It is appropriate to reduce the administrative burden on the operators by providing a period of time allowing a smooth conversion of labelling to avoid unnecessary disruption to commercial practices.

(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 Catalogue of feed materials referred to in Article 24 of Regulation (EC) No 767/2009 is established, as set out in the Annex to this Regulation.

Article 2

Regulation (EU) No 575/2011 is repealed.

References to the repealed Regulation shall be construed as references to this Regulation.

Article 3

Feed materials which have been labelled in accordance with Regulation (EU) No 575/2011 before 19 August 2013 may continue to be placed on the market and used until stocks are exhausted.

Article 4

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.

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[F1ANNEX

CATALOGUE OF FEED MATERIALS

Textual Amendments

F1 Substituted by Commission Regulation (EU) 2017/1017 of 15 June 2017 amending Regulation (EU) No 68/2013 on the Catalogue of feed materials (Text with EEA relevance).

PART A

General provisions

(1) The use of this Catalogue by the feed business operators shall be voluntary. However, the name of a feed material listed in Part C may be used only for a feed material complying with the requirements of the entry concerned.

(2) All entries in the list of feed materials in Part C shall comply with the restrictions on the use of feed materials in accordance with the relevant legislation of the Union; particular attention shall be paid to compliance with Regulation (EC) No 1829/2003 of the European Parliament and of the Council[(4)] for feed materials that are or are produced from genetically modified organisms, or result from a fermentation process involving genetically modified micro-organisms. Feed materials consisting of or containing animal by-products shall fulfil the requirements of Regulation (EC) No 1069/2009 of the European Parliament and of the Council[(5)] and of Commission Regulation (EU) No 142/2011[(6)] and their use may be subject to restrictions pursuant to Regulation (EC) No 999/2001 of the European Parliament and of the Council[(7)]. Feed business operators using a feed material entered in the Catalogue shall ensure that it complies with Article 4 of Regulation (EC) No 767/2009.

(3) 'Former foodstuffs' means foodstuffs, other than catering reflux, which were manufactured for human consumption in full compliance with the EU food law but which are no longer intended for human consumption for practical or logistical reasons or due to problems of manufacturing or packaging defects or other defects and which do not present any health risks when used as feed. The setting of maximum contents as referred to in point 1 of Annex I to Regulation (EC) No 767/2009 shall not be applicable to former foodstuffs and catering reflux. It shall apply when further processed as feed.

(4) In accordance with good practice as referred to in Article 4 of Regulation (EC) No 183/2005 of the European Parliament and of the Council[(8)], feed materials shall be free from chemical impurities resulting from their manufacturing process and from processing aids, unless a specific maximum content is fixed in the Catalogue. Substances prohibited for use in feed shall not be present and for those substances such maximum contents shall not be fixed. In the interest of transparency, feed materials with tolerated residues are complemented with relevant information provided by feed business operators in the context of usual commercial transactions.

(5) In accordance with good practice as referred to in Article 4 of Regulation (EC) No 183/2005, application of the ALARA[(9)] principle and without prejudice to the application of Regulation (EC) No 183/2005, Directive 2002/32/EC of the European Parliament and of the Council[(10)], Regulation (EC) No 396/2005 of the European Parliament and of the Council[(11)] and Regulation (EC) No 1831/2003 of the European Parliament and of the Council[(12)], it is appropriate to specify in the Catalogue of feed materials the maximum contents for chemical

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impurities resulting from the manufacturing process or from processing aids that are present at levels of 0,1 % or above. Maximum contents may also be set in the Catalogue for chemical impurities and processing aids present at levels lower than 0,1 % if deemed suitable for good trading practices. Unless otherwise specified in Part B or C of this Annex, any maximum content is expressed on a weight/weight basis[(13)].

The specific maximum contents for chemical impurities and processing aids are set either in the description of the process in Part B, in the description of the feed material in Part C or at the end of a category in Part C. Unless a specific maximum content is set in Part C, any maximum content set in Part B for a given process is applicable to any feed material listed in Part C in so far as the description of the feed material makes reference to this process and in so far as the process at stake meets the description given in Part B.

(6) Feed materials not listed in Chapter 12 of Part C which have been manufactured by fermentation and/or which have a natural presence of microorganisms may be placed on the market with live microorganisms as long as the intended use of the feed materials and compound feed containing them is

(a) not the multiplication of the microorganisms and

(b) not linked to a function exerted by microorganism(s) according to Annex I of Regulation (EC) No 1831/2003.

The presence of micro-organisms as well as any function resulting thereof shall not be claimed on the feed materials and the compound feed containing them.

(7) The botanical purity of a feed material shall not be less than 95 %. However, botanical impurities such as residues of other oil seeds or oil fruits derived from a previous manufacturing process shall not exceed 0,5 % for each type of oil seed or fruit. Derogating from these general rules a specific level shall be set in the list of feed materials in Part C.

(8) The common name/qualifier of one or more of the processes, as listed in the last column of the glossary of processes in Part B, shall[(14)] be added to the name of the feed material to indicate that it has undergone the respective process or processes. A feed material whose name is a combination of a name listed in Part C with the common name/qualifier of one or more of the processes listed in Part B shall be considered as included in the Catalogue and its label shall bear the compulsory declarations applicable for this feed material as set out in the last columns of Parts B and C, as applicable. Whenever set out in the last column of Part B, the specific method used for the process shall be specified in the name of the feed material.

(9) If the manufacturing process for a feed material differs from the description of the process concerned, as set out in the glossary of processes in Part B, the manufacturing process shall be set out in the description of the feed material concerned.

(10) For a number of feed materials, synonyms may be used. Such synonyms are included in square brackets in the column ‘name’ of the entry for the feed material concerned in the list of feed materials in Part C.

(11) In the description of the feed materials in the list of feed materials in Part C, the word ‘product’ is used instead of the word ‘by-product’ to reflect the market situation and the language used in practice by feed business operators to highlight the commercial value of feed materials.

(12) The botanical name of a plant is only given in the description of the first entry in the list of feed materials in Part C concerning that plant.

(13) The underlying principle for the compulsory labelling of analytical constituents of a certain feed material in the Catalogue is, whether a certain product contains high concentrations

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of a specific constituent, or the manufacturing process has changed the nutritional characteristics of the product.

(14) Article 15(g) of Regulation (EC) No 767/2009 in conjunction with point 6 of Annex I to that Regulation lays down labelling requirements as regards the moisture content. Article 16(1)(b) of that Regulation in conjunction with its Annex V lays down labelling requirements as regards other analytical constituents. In addition, point 5 of Annex I to Regulation (EC) No 767/2009 requires the declaration of the level of ash insoluble in hydrochloric acid if it exceeds 2,2 % in general or for certain feed material if it exceeds the level set in the relevant section of Annex V to that Regulation. However, some entries in the list of feed materials in Part C deviate from those rules as follows:

(a) compulsory declarations regarding analytical constituents in the list of feed materials in Part C replace the compulsory declarations as set out in the relevant section of Annex V to Regulation (EC) No 767/2009;

(b) if the column relating to compulsory declarations in the list of feed materials in Part C is left blank with respect to the analytical constituents that would have to be declared in accordance with the relevant section of Annex V to Regulation (EC) No 767/2009, none of those constituents need be labelled. For ash insoluble in hydrochloric acid, however, where no level is set in the list of feed materials in Part C, the level shall be declared if it exceeds 2,2 %;

(c) where one or more specific moisture levels are set in the column 'compulsory declarations' of the list of feed materials in Part C, those levels shall apply instead of the levels in point 6 of Annex I to Regulation (EC) No 767/2009. However, if the moisture content is below 14 % its declaration is not compulsory. Where no specific moisture level is set in that column, point 6 of Annex I to Regulation (EC) No 767/2009 shall apply.

(15) A feed business operator, who claims a feed material has more properties than those specified in the column 'description' of the list of feed materials in Part C, or refers to a process listed in Part B that can be assimilated to a claim (e.g. rumen protection), shall comply with Article 13 of Regulation (EC) No 767/2009. Furthermore, feed materials may meet a particular nutritional purpose in accordance with Articles 9 and 10 of Regulation (EC) No 767/2009.

PART B

Glossary of processes

	Process	Definition	Common name/ qualifier
a	In German 'Konzentrieren' may be replaced by 'Eindicken' where appropriate, in which case the common qualifier should be 'eingedickt'.		
b	'Decortication' may be replaced by 'dehulling' or 'dehusking' where appropriate, in which case the common qualifier should be 'dehulled' or 'dehusked'.		
c	In the case of rice, this process is referred to as 'husking' and the common qualifier as 'husked'.		
d	In French the name 'issues' may be used.		
e	In German the qualifier 'aufgeschlossen' and the name 'Quellwasser' (referring to starch) may be used. In Danish the qualifier 'Kvældning' and the name 'Kvældet' (referring to starch) may be used.		
f	In French 'Pressage' may be replaced by 'Extraction mécanique' where appropriate.		