Commission Regulation (EU) No 939/2010 of 20 October 2010 amending Annex IV to Regulation (EC) No 767/2009 on permitted tolerances for the compositional labelling of feed materials or compound feed as referred to in Article 11(5) (Text with EEA relevance)

COMMISSION REGULATION (EU) No 939/2010

of 20 October 2010

amending Annex IV to Regulation (EC) No 767/2009 on permitted tolerances for the compositional labelling of feed materials or compound feed as referred to in Article 11(5)

(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 27(1) thereof,

Whereas:

(1) Regulation (EC) No 767/2009 provides for a set of EU rules concerning the marketing conditions of feed materials and compound feed. Annex IV of this Regulation includes permitted tolerances for the compositional labelling of feed materials and compound feed.

(2) Statistical control data from the competent authorities in the Member States on deviations in feed samples have revealed that substantial changes need to be made to the parameters set out in Annex IV to Regulation (EC) No 767/2009 in order to consider the scientific and technological developments in sampling and analytical methods. The Commission has now completed the evaluation of that data and consequently the structure and the parameters of Annex IV should be modified.

(3) The amended tolerances for the moisture content should take into account certain feed materials with a moisture content greater than 50 % as for these feed materials new labelling provisions have been introduced by Articles 15 and 16 of Regulation (EC) No 767/2009.

(4) In the absence of methods to determine the energy value and the protein value at Union level, Member States should be allowed to maintain their national tolerances for these parameters.

(5) For the newly introduced tolerances for feed additives in feed it should be clarified that these only apply to the technical deviations, as the analytical tolerance is already determined in line with the official method of detection for the respective feed additive. The tolerances should apply to declared values in the list of feed additives and the list of analytical constituents.

(6) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health and neither the European Parliament nor the Council has opposed them,

HAS ADOPTED THIS REGULATION:

Article 1

Annex IV to Regulation (EC) No 767/2009 is replaced in accordance with the Annex to this Regulation.

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 apply from 1 September 2010.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 20 October 2010.

For the Commission

The President

José Manuel BARROSO

***Changes to legislation:** There are currently no known outstanding effects for the Commission Regulation (EU) No 939/2010. (See end of Document for details)*

ANNEX

Annex IV to Regulation (EC) No 767/2009 is replaced by the following:

ANNEX IV

Permitted tolerances for the compositional labelling of feed materials or compound feed provided for in Article 11(5)

Part A:

Tolerances for the analytical constituents set out in Annexes I, V, VI and VII

1. The tolerances laid down in this Part include technical and analytical deviations. Once analytical tolerances covering measurement uncertainties and procedural variations are fixed at Union level, the values set in point 2 should be adapted accordingly in order to cover only the technical tolerances.

2. Where the composition of a feed material or compound feed is found to deviate from the labelled value of the analytical constituents set out in Annexes I, V, VI and VII the following tolerances shall apply:

(a) for crude oil and fats, crude protein and crude ash:

  (i) ± 3 % of the total mass or volume for declared contents of 24 % or more;

  (ii) ± 12,5 % of the declared content for declared contents of less than 24 % but not less than 8 %;

  (iii) ± 1 % of the total mass or volume for declared contents of less than 8 %;

(b) for crude fibre, sugar and starch:

  (i) ± 3,5 % of the total mass or volume for declared contents of 20 % or more;

  (ii) ± 17,5 % of the declared content for declared contents of less than 20 % but not less than 10 %;

  (iii) ± 1,7 % of the total mass or volume for declared contents of less than 10 %;

(c) for calcium, ash insoluble in hydrochloric acid, total phosphorus, sodium, potassium and magnesium:

  (i) ± 1 % of the total mass or volume for declared contents of 5 % or more;

  (ii) ± 20 % of the declared content for declared contents of less than 5 % but not less than 1 %;

  (iii) ± 0,2 % of the total mass or volume for declared contents of less than 1 %;

(d) for moisture:

  (i) ± 8 % of the declared content for declared contents of 12,5 % or more;

  (ii) ± 1 % of the total mass or volume for declared contents of less than 12,5 % but not less than 5 %;