Commission Regulation (EC) No 152/2009 of 27 January 2009 laying down the methods of sampling and analysis for the official control of feed (Text with EEA relevance)

COMMISSION REGULATION (EC) No 152/2009

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THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 882/2004 of the European Parliament and of the Council of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules[(1)], and in particular Article 11(4)(a), (b) and (c) thereof,

Whereas:

(1) The following acts were adopted for the implementation of Directive 70/373/EEC and remain in force in accordance with Article 61(2) of Regulation (EC) No 882/2004:

- First Commission Directive 71/250/EEC of 15 June 1971 establishing Community methods of analysis for the official control of feedingstuffs[(2)],
- Second Commission Directive 71/393/EEC of 18 November 1971 establishing Community methods of analysis for the official control of feedingstuffs[(3)],
- Third Commission Directive 72/199/EEC of 27 April 1972 establishing Community methods of analysis for the official control of feedingstuffs[(4)],
- Fourth Commission Directive 73/46/EEC of 5 December 1972 establishing Community methods of analysis for the official control of feedingstuffs[(5)],
- First Commission Directive 76/371/EEC of 1 March 1976 establishing Community methods of sampling for the official control of feedingstuffs[(6)],
- Seventh Commission Directive 76/372/EEC of 1 March 1976 establishing Community methods of analysis for the official control of feedingstuffs[(7)],
- Eight Commission Directive 78/633/EEC of 15 June 1978 establishing Community methods of analysis for the official control of feedingstuffs[(8)],
- Ninth Commission Directive 81/715/EEC of 31 July 1981 establishing Community methods of analysis for the official control of feedingstuffs[(9)],
- Tenth Commission Directive 84/425/EEC of 25 July 1984 establishing Community methods of analysis for the official control of feedingstuffs[(10)],
- Commission Directive 86/174/EEC of 9 April 1986 fixing the method of calculation for the energy value of compound poultry-feed[(11)],

Changes to legislation: *There are outstanding changes not yet made to Commission Regulation (EC) No 152/2009. 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*

- Eleventh Commission Directive 93/70/EEC of 28 July 1993 establishing Community methods of analysis for official control of feedingstuffs[(12)],
- Twelfth Commission Directive 93/117/EC of 17 December 1993 establishing Community methods of analysis for official control of feedingstuffs[(13)],
- Commission Directive 98/64/EC of 3 September 1998 establishing Community methods of analysis for the determination of amino-acids, crude oils and fats, and olaquindox in feedingstuffs and amending Directive 71/393/EEC[(14)],
- Commission Directive 1999/27/EC of 20 April 1999 establishing Community methods of analysis for the determination of amprolium, diclazuril and carbadox in feedingstuffs and amending Directives 71/250/EEC, 73/46/EEC and repealing Directive 74/203/EEC[(15)],
- Commission Directive 1999/76/EC of 23 July 1999 establishing a Community method of analysis for the determination of lasalocid sodium in feedingstuffs[(16)],
- Commission Directive 2000/45/EC of 6 July 2000 establishing Community methods of analysis for the determination of vitamin A, vitamin E and tryptophan in feedingstuffs[(17)],
- Commission Directive 2002/70/EC of 26 July 2002 establishing requirements for the determination of levels of dioxins and dioxin-like PCBs in feedingstuffs[(18)],
- Commission Directive 2003/126/EC of 23 December 2003 on the analytical method for the determination of constituents of animal origin for the official control of feedingstuffs[(19)].

(2) Since Directive 70/373/EEC was replaced by Regulation (EC) No 882/2004 it is appropriate to replace the implementing acts to that Directive by a single Regulation. At the same time the methods should be adapted in the light of developments in scientific and technological knowledge. Methods which are no longer valid for their intended purpose should be deleted. It is foreseen to update the sampling provisions in due time to take into account the recent developments in the way feed are produced, stored, transported and marketed, nevertheless it is appropriate to maintain for the time being the existing provisions on sampling.

(3) Directives 71/250/EEC, 71/393/EEC, 72/199/EEC, 73/46/EEC, 76/371/EEC, 76/372/EEC, 78/633/EEC, 81/715/EEC, 84/425/EEC, 86/174/EEC, 93/70/EEC, 93/117/EC, 98/64/EC, 1999/27/EC, 1999/76/EC, 2000/45/EC, 2002/70/EC and 2003/126/EC should therefore be repealed.

(4) 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:

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[F1 Article 1

Sampling for the official control of feed, in particular as regards the determination of constituents, including material which contains or consists of or is produced from genetically modified organisms (GMOs), feed additives as defined by Regulation (EC) No 1831/2003 of the European Parliament and of the Council[20], undesirable substances as defined by Directive 2002/32/EC of the European Parliament and of the Council[21] shall be carried out in accordance with the methods set out in Annex I.

The method of sampling set out in Annex I is applicable for the control of feed as regards the determination of pesticide residues as defined in Regulation (EC) No 396/2005 of the European Parliament and of the Council[22] and control of compliance with Regulation (EU) No 619/2011.**]**

Textual Amendments

F1 Substituted by Commission Regulation (EU) No 691/2013 of 19 July 2013 amending Regulation (EC) No 152/2009 as regards methods of sampling and analysis (Text with EEA relevance).

Article 2

Preparation of samples for analysis and expression of results shall be carried out in accordance with the methods set out in Annex II.

Article 3

Analysis for the official control of feed shall be carried out using the methods set out in Annex III (Methods of analysis to control the composition of feed materials and compound feed, Annex IV (Methods of analysis to control the level of authorised additives in feed), Annex V (Methods of analysis to control undesirable substances in feed) and Annex VI (Methods of analysis for the determination of constituents of animal origin for the official control of feed).

Article 4

The energy value of compound poultry feed shall be calculated in accordance with Annex VII.

Article 5

The methods of analysis to control illegal presence of no longer authorised additives in feed set out in Annex VIII shall be used for confirmatory purposes.

Article 6

Directives 71/250/EEC, 71/393/EEC, 72/199/EEC, 73/46/EEC, 76/371/EEC, 76/372/EEC, 78/633/EEC, 81/715/EEC, 84/425/EEC, 86/174/EEC, 93/70/EEC, 93/117/EC, 98/64/EC, 1999/27/EC, 1999/76/EC, 2000/45/EC, 2002/70/EC and 2003/126/EC are repealed.

References to the repealed Directives shall be construed as references to this Regulation and shall be read in accordance with the correlation tables in Annex IX.

Article 7

This Regulation shall enter into force on the twentieth day following that of 20th day following its publication in the *Official Journal of the European Union.*

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It shall apply from 26 August 2009.

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

***Changes to legislation:** There are outstanding changes not yet made to Commission Regulation (EC) No 152/2009. 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*

[F1 ANNEX I

METHODS OF SAMPLING

1. PURPOSE AND SCOPE

Samples intended for the official control of feed shall be taken according to the methods described below. Samples thus obtained shall be considered as representative of the sampled portions.

The purpose of representative sampling is to obtain a small fraction from a lot in such a way that a determination of any particular characteristic of this fraction will represent the mean value of the characteristic of the lot. The lot shall be sampled by repeatedly taking incremental samples at various single positions in the lot. These incremental samples shall be combined by mixing to form an aggregate sample from which representative final samples shall be prepared by representative dividing.

If by a visual inspection, portions of the feed to be sampled show a difference in quality from the rest of the feed from the same lot, such portions shall be separated from the rest of the feed and treated as a separate sublot. If it is not possible to divide the feed into separate sublots, the feed shall be sampled as one lot. In such cases, mention shall be made of this fact in the sampling report.

Where a feed sampled in accordance with the provisions of this Regulation is identified as not satisfying EU requirements, is part of a lot of feed of the same class or description, it shall be presumed that all of the feed in that lot is so affected, unless following a detailed assessment there is no evidence that the rest of the lot fails to satisfy the EU requirements.

2. DEFINITIONS

—Lot (or batch)	:	an identified quantity of feed determined to have common characteristics, such as origin, variety, type of packaging, packer, consignor or labelling, and in case of a production process, a unit of production from a single plant using uniform production parameters or a number of such units, when produced in continuous order and stored together.
—Sampled portion	:	A lot or an identified part of the lot or sublot.
—Sealed sample	:	a sample sealed in such a manner as to prevent any access to the sample without breaking or removing the seal.
—Incremental sample	:	A quantity taken from one point in the sampled portion.
—Aggregate sample	:	An aggregate of incremental samples taken from the same sampled portion.
—Reduced sample	:	A part of the aggregate sample, obtained from the latter by a process of representative reduction.
—Final sample	:	A part of the reduced sample or of the homogenised aggregate sample.
—Laboratory sample	:	a sample intended for the laboratory (as received by the laboratory) and can be the final, reduced or aggregate sample.

3. GENERAL PROVISIONS

— Sampling personnel: the samples shall be taken by persons authorised for that purpose by the competent authority.

— The sample has to be sealed in such a manner as to prevent any access to the sample without breaking or removing the seal. The seal's mark should be clearly identifiable and clearly visible. Alternatively, the sample can be put in a recipient which can be