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[...] (2024) **XXX** draft

COMMISSION IMPLEMENTING REGULATION (EU) .../...

of **XXX**

**concerning the renewal of the authorisation of orthophosphoric acid as a feed additive
for all animal species and repealing Implementing Regulation (EU) No 1055/2013**

(Text with EEA relevance)

COMMISSION IMPLEMENTING REGULATION (EU) .../...

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concerning the renewal of the authorisation of orthophosphoric acid as a feed additive for all animal species and repealing Implementing Regulation (EU) No 1055/2013

(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 1831/2003 of the European Parliament and of the Council of 22 September 2003 on additives for use in animal nutrition¹, and in particular Article 9(2) thereof,

Whereas:

- (1) Regulation (EC) No 1831/2003 provides for the authorisation of additives for use in animal nutrition and for the grounds and procedures for granting and renewing such authorisation.
- (2) Orthophosphoric acid was authorised for a period of 10 years as a feed additive for all animal species by Commission Implementing Regulation (EU) No 1055/2013².
- (3) In accordance with Article 14(1) of Regulation (EC) No 1831/2003, an application was submitted for the renewal of the authorisation of orthophosphoric acid as a feed additive for all animal species, requesting the additive to be classified in the additive category ‘technological additives’ and in the functional group ‘preservatives’. That application was accompanied by the particulars and documents required under Article 14(2) of that Regulation.
- (4) The European Food Safety Authority (‘the Authority’) concluded in its opinion of 27 September 2023³ that orthophosphoric acid remains safe for the target species and the environment under the conditions of use currently authorised. It also concluded that the additive is corrosive to the skin and eyes and should be considered as hazardous to the respiratory tract. The Authority considered that there is no need for assessing the efficacy of orthophosphoric acid, as the application for renewal of the authorisation does not include a proposal for amending or supplementing the conditions of the original authorisation in this regards.
- (5) The Reference Laboratory set up by Regulation (EC) No 1831/2003 considered that the conclusions and recommendations reached in the assessment carried out regarding the method of analysis of orthophosphoric acid as a feed additive in the context of the previous authorisation are valid and applicable for the current application. In

¹ OJ L 268, 18.10.2003, p. 29, ELI: <http://data.europa.eu/eli/reg/2003/1831/oj>.

² Commission Implementing Regulation (EU) No 1055/2013 of 25 October 2013 concerning the authorisation of a preparation of orthophosphoric acid as a feed additive for all animal species (OJ L 288, 30.10.2013, p. 57, ELI: http://data.europa.eu/eli/reg_impl/2013/1055/oj).

³ EFSA Journal 2023;21(10):8361.

accordance with Article 5(4), point (c) of Commission Regulation (EC) No 378/2005⁴, an evaluation report of the Reference Laboratory is therefore not required.

- (6) In view of the above, the Commission considers that orthophosphoric acid satisfies the conditions provided for in Article 5 of Regulation (EC) No 1831/2003. Accordingly, the authorisation of that additive should be renewed. In addition, the Commission considers that appropriate protective measures should be taken to prevent adverse effects on the health of the users of the additive. Those protective measures should be without prejudice to other workers' safety requirements under Union law.
- (7) As a consequence of the renewal of the authorisation of orthophosphoric acid as a feed additive, Implementing Regulation (EU) No 1055/2013 should be repealed accordingly.
- (8) Since safety reasons do not require the immediate application of the modifications to the conditions of authorisation of orthophosphoric acid, it is appropriate to provide for a transitional period for interested parties to prepare themselves to meet the new requirements resulting from the renewal of the authorisation.
- (9) 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

Renewal of the authorisation

The authorisation of the substance specified in the Annex, belonging to the additive category 'technological additives' and to the functional group 'preservatives', is renewed subject to the conditions laid down in that Annex.

Article 2

Repeal of Implementing Regulation (EU) No 1055/2013

Implementing Regulation (EU) No 1055/2013 is repealed.

Article 3

Transitional measures

1. The substance specified in the Annex and premixtures containing that substance which are produced and labelled before [*6 months after the date of entry into force of this Regulation – Date to be inserted by the Service responsible for the publication*] in accordance with the rules applicable before [*the date of entry into force of this Regulation – Date to be inserted by the Service responsible for the publication*] may continue to be placed on the market and used until the existing stocks are exhausted.
2. Compound feed and feed materials containing the substance specified in the Annex, which are produced and labelled before [*12 months after the date of entry into force of this Regulation – Date to be inserted by the Service responsible for the*

⁴ Commission Regulation (EC) No 378/2005 of 4 March 2005 on detailed rules for the implementation of Regulation (EC) No 1831/2003 of the European Parliament and of the Council as regards the duties and tasks of the Community Reference Laboratory concerning applications for authorisations of feed additives (OJ L 59, 5.3.2005, p. 8, ELI: <http://data.europa.eu/eli/reg/2005/378/oj>).

publication] in accordance with the rules applicable before [*the date of entry into force of this Regulation – Date to be inserted by the Service responsible for the publication*] may continue to be placed on the market and used until the existing stocks are exhausted if they are intended for food-producing animals.

3. Compound feed and feed materials containing the substance specified in the Annex, which are produced and labelled before [*24 months after the date of entry into force of this Regulation – Date to be inserted by the Service responsible for the publication*] in accordance with the rules applicable before [*the date of entry into force of this Regulation – Date to be inserted by the Service responsible for the publication*] may continue to be placed on the market and used until the existing stocks are exhausted if they are intended for non-food producing animals.

Article 4

Entry into force

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,

For the Commission
The President
Ursula VON DER LEYEN