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EUROPEAN COMMISSION

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Draft

**COMMISSION REGULATION**

**of**

**amending Annex III to Regulation (EC) No 767/2009 of the European Parliament and of the Council as regards the prohibition to place on the market or use for animal nutritional purposes protein products obtained from yeasts of the *Candida* variety cultivated on n-alkanes**

**(Text with EEA relevance)**

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## COMMISSION REGULATION

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**amending Annex III to Regulation (EC) No 767/2009 of the European Parliament and of the Council as regards the prohibition to place on the market or use for animal nutritional purposes protein products obtained from yeasts of the *Candida* variety cultivated on n-alkanes**

**(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<sup>1</sup> and in particular the second subparagraph of Article 6(2) thereof

Whereas:

- (1) Regulation (EC) No 767/2009 lays down general safety and marketing requirements for feed. In particular it provides for a list of materials whose placing on the market or use for animal nutritional purposes is restricted or prohibited.
- (2) Directive 82/471/EEC and Commission Decision 85/382/EEC of 10 July 1985 prohibiting the use in feedingstuffs of protein products obtained from *Candida* yeasts cultivated on n-alkanes<sup>2</sup> prohibit the placing on the market and the use in feed of protein products obtained from *Candida* yeasts cultivated on n-alkanes. The reasons for this prohibition is that certain strains of yeast of the *Candida* variety cultivated on n-alkanes are pathogenic and, in some circumstances, may give rise to hypersensitivity reactions, thus presenting potential hazards to animal or human health.
- (3) Since there are neither new technical developments nor new evidence establishing that the use of such protein products for animal nutritional purposes is safe, the placing on the market and the use of those products should continue to be prohibited and Regulation (EC) No 767/2009 should be amended accordingly.

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<sup>1</sup> OJ L 229, 1.9.2009, p. 1.

<sup>2</sup> OJ L 217, 14.8.1985, p. 27.

- (4) For the sake of clarity, Commission Decision 85/382/EEC should be repealed.

To manage feed safety risks, the list of materials whose placing on the market for animal nutritional purposes is prohibited, previously provided for in Decision 2004/217/EC, had to be included in Chapter 1 of Annex III to Regulation (EC) No 767/2009.

- (5) Points 5 and 6 of Chapter I of Annex III to Regulation (EC) No 767/2009 should be aligned with that Decision.
- (6) Regulation (EC) No 767/2009 should therefore be amended accordingly.
- (7) 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*

Chapter 1 of Annex III to Regulation (EC) No 767/2009 is amended as follows:

- (1) Points 5 and 6 are replaced by the following:

"5. All wastes obtained from the various phases of the treatment of the urban, domestic and industrial waste water, as defined in Article 2 of Council Directive 91/271/EEC<sup>3</sup>, irrespective of any further processing of these wastes and irrespective also of the origin of the waste waters<sup>4</sup>.

6. Solid urban waste<sup>5</sup>, such as household waste."

- (2) The following point 8 is added:

"8. Protein products obtained from yeasts of the *Candida* variety cultivated on n-alkanes."

#### *Article 2*

Decision 85/382/EEC is repealed.

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<sup>3</sup> OJ L 135, 30.5.1991, p. 40.

<sup>4</sup> The term "waste water" does not refer to "process water", i.e. water from independent conduits integrated in food or feed industries; where these conduits are supplied with water, no water may be used for animal nutrition unless it is wholesome and clean water as specified in Article 4 of Council Directive 98/83/EC of 3 November 1998 concerning the quality of water intended for human consumption. In the case of fish industries, the conduits concerned may be also supplied with clean seawater as defined in Article 2 of Council Directive 91/493/EEC of 22 July 1991 laying down the health conditions for the production and the placing on the market of fishery products. Process water may not be used for animal nutrition unless it carries feed or food material and is technically free from cleaning agents, disinfectants or other substances not authorised by the animal nutrition legislation.

<sup>5</sup> The term "solid urban waste" does not refer to catering waste as defined by regulation (EC) No 1774/2002.

*Article 3*

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

It shall apply from 1 September 2010.

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

Done at Brussels,

*For the Commission*  
*José Manuel BARROSO*  
*The President*