

Brussels, XXX
[...] (2017) XXX draft

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

of XXX

amending Regulation (EC) No 889/2008 laying down detailed rules for the implementation of Council Regulation (EC) No 834/2007 on organic production and labelling of organic products with regard to organic production, labelling and control

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THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products and repealing Regulation (EEC) No 2092/91¹, and in particular Article 22(1) thereof,

Whereas:

- (1) Article 25(1)(3)(b) of Commission Regulation (EC) No 889/2008² allows to supplement natural feed in the grow-out stage of certain shrimp species. For shrimps in earlier life stages in nurseries and hatcheries supplementation of feed is essential for the shrimp's development, in particular the need for cholesterol. It is therefore necessary to extend the feed rations and the supplementation of feed with cholesterol to shrimps also in the early life stages.
- (2) According to Article 27(1)(f) of Regulation (EC) No 889/2008 minerals (trace elements included), vitamins, aminoacids, and micronutrients, can be used in the processing of organic food, as far as their use is legally required in the foodstuff in which they are incorporated. According to the Judgment of the European Court of Justice of 5 November 2015, C-137/13, the use of these substances in the processing of organic food is legally required only when a provision of EU law or a provision of national law compatible therewith directly requires that that substance be added to a foodstuff in order for that foodstuff to be placed on the market.
- (3) Regulation (EU) 2018/... will allow the use of minerals in infant formula and follow-on formula and processed cereal-based foods and baby food when the use of minerals is authorised by the relevant EU legislation.. In order to avoid a gap between the current interpretation of the use of minerals in foods for infants and young children and to ensure consistency with the upcoming organic legislation it is appropriate to allow the use of minerals in the production of organic baby foods for infants and young children.
- (4) Article 42 of Commission Regulation (EC) No 889/2008, allows exceptionally, until 31 December 2018, under certain conditions and when organic reared pullets are not

¹ OJ L 189, 20.7.2007, p. 1.

² Commission Regulation (EC) No 889/2008 of 5 September 2008 laying down detailed rules for the implementation of Council Regulation (EC) No 834/2007 on organic production and labelling of organic products with regard to organic production, labelling and control (OJ L 250, 18.9.2008, p.1).

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available, for non-organically reared pullets for egg production of not more than 18 weeks to be brought into an organic livestock unit.

- (5) Production of organically reared pullets for egg production has not been available in sufficient quality and quantity on the Union market to meet the needs of laying hen farmers. Moreover, the development of harmonised organic production rules for young poultry at Union level is complex, as views on technical requirements vary widely. In order to allow more time to develop the production of organic pullets for egg production, and in order to allow more time to establish detailed rules for the production of organic pullets, the period of application of the exceptional production rules for using non-organically reared pullets for egg production of not more than 18 weeks should be extended until 31 December 2020.
- (6) Article 43 of Regulation (EC) No 889/2008 allows exceptionally, for calendar years 2015, 2016, 2017 and 2018, for a maximum of 5% of non-organic protein feed to be used for porcine and poultry species.
- (7) Organic protein supply has not been available in sufficient quality and quantity on the Union market to meet the nutritional requirements of pigs and poultry raised on organic farms. The production of organic protein crops is still lagging behind demand. It is therefore appropriate to extend the period of the exceptional possibility of using a limited proportion of non-organic protein feed until 31 December 2020.
- (8) In accordance with the procedure provided for in Article 16(3) of Regulation (EC) No 834/2007, Member States have submitted dossiers on certain substances to the other Member States and the Commission, in view of their authorisation and inclusion in Annex I, II and VIIIa to Regulation (EC) No 889/2008. Those dossiers have been examined by EGTOP and the Commission.
- (9) In its recommendations with regard to fertilisers (2), EGTOP concluded, inter alia, that the substances "industrial lime from cane sugar production" and "xilite" comply with the organic objectives and principles. Therefore, those substances should be included in Annex I to Regulation (EC) No 889/2008.
- (10) In its recommendations with regard to plant protection products (2), EGTOP concluded, inter alia, that the substances "garlic extract", "COS-OGA (aka fytofend)", "willow bark extract" and "sodium hydrogen carbonate" comply with the organic objectives and principles. Therefore, those substances should be included in Annex II to Regulation (EC) No 889/2008. In its recommendations with regard to products and substances used or added in organic products of the wine sector (2), EGTOP concluded, inter alia, that the substances "potato proteins and yeast protein extracts for clarification", "inactivated yeast, autolysates of yeast and yeast hulls for addition", and "yeast mannoproteins" comply with the organic objectives and principles. Therefore, those substances should be included in Annex VIIIa to Regulation (EC) No 889/2008.
- (11) Regulation (EC) No 889/2008 should therefore be amended accordingly.
- (12) The measures provided for in this Regulation are in accordance with the opinion of the Committee on Organic Production,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 889/2008 is amended as follows:

(1) Paragraph (3) (b) of Article 25 1 is replaced by:

'(b) the feed ration of the shrimp species referred to in Section 7 of Annex XIIIa may comprise a maximum of 25 % fishmeal and 10 % fish oil derived from sustainable fisheries. In order to secure the quantitative dietary needs of shrimps, organic cholesterol may be used to supplement their diets; where organic cholesterol is not available, non-organic cholesterol derived from wool, shellfish or other sources may be used. These limits and the option to supplement their diet with cholesterol apply both in the grow-out stage and for shrimps in earlier life stages in nurseries and hatcheries.'

(2) Paragraph (1) (f) of Article 27 is replaced by:

'(f) minerals (trace elements included), vitamins, amino acids and micronutrients, provided that:

(i) their use in food for normal consumption is 'directly legally required', in the meaning of being directly required by provisions of Union law or provisions of national law compatible with Union law, with the consequence that the food cannot be placed at all on the market as food for normal consumption if those minerals, vitamins, amino acids or micronutrients are not added; or

(ii) as regards food placed on the market as having particular characteristics or effects in relation to health or nutrition or in relation to needs of specific groups of consumers,

- in products referred to in points (a) and (b) of Article 1(1) of Regulation (EU) No 609/2013 of the European Parliament and of the Council³, their use is authorised by that Regulation and acts adopted on the basis of Article 11(1) of that Regulation for the products concerned, or

- in products regulated by Commission Directive 2006/125/EC⁴, their use is authorised by that Directive.'

(3) In Article 42(b), the date '31 December 2018' is replaced by the date '31 December 2020'.

(4) In Article 43, the second subparagraph is replaced by the following:

'The maximum percentage of non-organic protein feed authorised per period of 12 months for those species shall be 5% for calendar years 2018, 2019 and 2020.'

(5) In Article 92a, between paragraph (1) and (2), the following paragraph is inserted:

'(1a) Where a Member State finds irregularities or infringements relating to the application of this Regulation with regard to a product coming from that Member State and bearing

³ *Regulation (EU) No 609/2013 of the European Parliament and of the Council of 12 June 2013 on food intended for infants and young children, food for special medical purposes, and total diet replacement for weight control and repealing Council Directive 92/52/EEC, Commission Directives 96/8/EC, 1999/21/EC, 2006/125/EC and 2006/141/EC, Directive 2009/39/EC of the European Parliament and of the Council and Commission Regulations (EC) No 41/2009 and (EC) No 953/2009 (OJ L 181, 29.6.2013, p. 35).*

⁴ *Commission Directive 2006/125/EC of 5 December 2006 on processed cereal-based foods and baby foods for infants and young children, OJ L 339, 6.12.2006, p. 16–35.*

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indications as referred to in Title IV of Regulation (EC) No 834/2007 and in Title III and/or Annex XI to this Regulation, if such irregularities or infringements may have implications for another Member State or States, it shall notify the Member State or States which may be implicated, the other Member States and the Commission without delay via the system referred to in Article 94(1) of this Regulation.'

(6) Annexes I, II and VIIIa to Regulation (EC) No 889/2008 are amended as set out in the Annex

Article 2

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*

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WORKING DOCUMENT

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ANNEX

Annexes I, II and VIIIa to Regulation (EC) No 889/2008 are amended as follows:

(1) Annex I is replaced by the following:

'ANNEX I

Fertilizers, soil conditioners and nutrients referred to in Article 3(1) and Article 6d(2)

Note:

A: authorised under Regulation (EEC) No 2092/91 and carried over by Article 16(3)(c) of Regulation (EC) No 834/2007

B: authorised under Regulation (EC) No 834/2007

Authorisation	Name Compound products or products containing only materials listed hereunder:	Description, compositional requirements, conditions for use
A	Farmyard manure	Product comprising a mixture of animal excrements and vegetable matter (animal bedding). Factory farming origin forbidden
A	Dried farmyard manure and dehydrated poultry manure	Factory farming origin forbidden
A	Composted animal excrements, including poultry manure and composted farmyard manure included	Factory farming origin forbidden
A	Liquid animal excrements	Use after controlled fermentation and/or appropriate dilution Factory farming origin forbidden
B	Composted or fermented mixture of household waste	Product obtained from source separated household waste, which has been submitted to composting or to anaerobic fermentation for biogas production Only vegetable and animal household waste Only when produced in a closed and monitored collection system, accepted by the Member State Maximum concentrations in mg/kg of dry matter: cadmium: 0,7; copper: 70; nickel: 25; lead: 45; zinc: 200; mercury: 0,4; chromium (total): 70; chromium (VI): not detectable
A	Peat	Use limited to horticulture (market gardening, floriculture, arboriculture, nursery)
A	Mushroom culture wastes	The initial composition of the substrate shall be limited to products of this Annex
A	Dejecta of worms (vermicompost) and insects	
A	Guano	
A	Composted or fermented mixture of vegetable matter	Product obtained from mixtures of vegetable matter, which have been submitted to composting or to anaerobic fermentation for biogas production

B	Biogas digestate containing animal by-products co-digested with material of plant or animal origin as listed in this Annex	Animal by-products (including by-products of wild animals) of category 3 and digestive tract content of category 2 (categories 2 and 3 as defined in Regulation (EC) No 1069/2009 of the European Parliament and of the Council) must not be from factory farming origin. The Processes have to be in accordance with Commission Regulation (EU) No 142/2011. Not to be applied to edible parts of the crop
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Authorisation	Name Compound products or products containing only materials listed hereunder:	Description, compositional requirements, conditions for use
B	Products or by-products of animal origin as below: Blood meal Hoof meal Horn meal Bone meal or degelatinised bone meal Fish meal Meat meal Feather, hair and "chiquette" meal Wool Fur (1) Hair Dairy products	(1) Maximum concentration in mg/kg of dry matter of chromium (VI): not detectable (2) Not to be applied to edible parts of the crop
A	Products and by-products of plant origin for fertilisers	Examples: oilseed cake meal, cocoa husks, malt culms
B	Hydrolysed proteins of plant origin	
A	Seaweeds and seaweed products	As far as directly obtained by: (i) physical processes including dehydration, freezing and grinding (ii) extraction with water or aqueous acid and/or alkaline solution (iii) fermentation
A	Sawdust and wood chips	Wood not chemically treated after felling
A	Composted bark	Wood not chemically treated after felling
A	Wood ash	From wood not chemically treated after felling
A	Soft ground rock phosphate	Product as specified in point 7 of Annex IA.2. to Regulation (EC) No 2003/2003 of the European Parliament and of the Council relating to fertilisers, 7 Cadmium content less than or equal to 90 mg/kg of P205
A	Aluminium-calcium phosphate	Product as specified in point 6 of Annex IA.2. of Regulation 2003/2003, Cadmium content less than or equal to 90 mg/kg of P205 Use limited to basic soils (pH > 7.5)
A	Basic slag	Products as specified in point 1 of Annex IA.2. of Regulation 2003/2003
A	Crude potassium salt or kainit	Products as specified in point 1 of Annex IA.3. of Regulation 2003/2003
A	Potassium sulphate, possibly containing magnesium salt	Product obtained from crude potassium salt by a physical extraction process, containing possibly also magnesium salts
A	Stillage and stillage extract	Ammonium stillage excluded

A	Calcium carbonate (chalk, marl, ground limestone, Breton ameliorant, (maerl), phosphate chalk)	Only of natural origin
A	Magnesium and calcium carbonate	Only of natural origin e.g. magnesian chalk, ground magnesium, limestone
A	Magnesium sulphate (kieserite)	Only of natural origin
A	Calcium chloride solution	Foliar treatment of apple trees, after identification of deficit of calcium
A	Calcium sulphate (gypsum)	Products as specified in point 1 of Annex ID. of Regulation 2003/2003 Only of natural origin
A, B	Industrial lime from sugar production	By-product of sugar production from sugar beet and sugar cane
A	Industrial lime from vacuum salt production	By-product of the vacuum salt production from brine found in mountains

Authorisation	Name Compound products or products containing only materials listed hereunder:	Description, compositional requirements, conditions for
A	Elemental sulphur	Products as specified in Annex ID.3 of Regulation 2003/2003
A	Trace elements	Inorganic micronutrients listed in part E of Annex I to Regulation 2003/2003
A	Sodium chloride	Only mined salt
A	Stone meal and clays	
B	Leonardite (Raw organic sediment rich in humic acids)	Only if obtained as a by-product of mining activities
B	Xylite	Only if obtained as a by-product of mining activities (e.g. by-product of brown coal mining)
B	Chitin (Polysaccharide obtained from the shell of crustaceans)	Only if obtained from sustainable fisheries, as defined in Article 3(e) of Council Regulation (EC) No 2371/2002 or organic aquaculture
B	Organic rich sediment from fresh water bodies formed under exclusion of oxygen (e.g. sapropel)	Only organic sediments that are by-products of fresh water body management or extracted from former freshwater areas When applicable, extraction should be done in a way to cause minimal impact on the aquatic system Only sediments derived from sources free from contaminations of pesticides, persistent organic pollutants and petrol like substances Maximum concentrations in mg/kg of dry matter: cadmium: 0,7; copper: 70; nickel: 25; lead: 45; zinc: 200; mercury: 0,4; chromium (total): 70; chromium (VI): not detectable

(2) Annex II is replaced by the following:

ANNEX II

Pesticides — Plant protection products referred to in Article 5(1)

All the substances listed in this Annex have to comply at least with the conditions for use as specified in the Annex to Implementing Regulation (EU) No 540/2011⁽⁹⁾. More restrictive conditions for use for organic production are specified in the second column of each table

1. Substances of crop or animal origin

Name	Description, compositional requirement, conditions for use
Allium sativum (Garlic extract)	
Azadirachtin extracted from	

<i>Azadirachta indica</i> (Neem tree)	
Basic substances (including: Lecithins, sucrose, fructose, vinegar, whey, chitosan hydrochloride ¹ , and <i>Equisetum arvense</i> etc)	Only those basic substances as defined by Article 23 of Regulation (EC) No 1107/2009 which are food as defined in Article 2 of Regulation (EC) No 178/2002 and have plant or animal origin Substances not to be used as herbicides, but only for the control of pests and diseases.
Beeswax	Only as pruning agent/wound protectant
COS-OGA (aka fytofend)	
Hydrolysed proteins excluding gelatine	
Laminarin	Kelp shall be either grown organically in accordance with Article 6d or harvested in a sustainable way in accordance with Article 6c
Pheromones	Only in traps and dispensers.
Plant oils	All uses authorised, except herbicide .
Pyrethrins extracted from <i>Chrysanthemum cinerariaefolium</i>	
Pyrethroids (only deltamethrin or lambda-cyhalothrin)	Only in traps with specific attractants; only against <i>Bactrocera oleae</i> and <i>Ceratitis capitata</i> Wied
Quassia extracted from <i>Quassia amara</i>	Only as Insecticide, repellent
Repellents by smell of animal or plant origin/sheep fat	Only on non-edible parts of the crop and where crop material is not ingested by sheep or goats
<i>Salix spp.</i> Cortex (willow bark extract)	

⁽¹⁾ Commission Implementing Regulation (EU) No 540/2011 of 25 May 2011 implementing Regulation (EC) No 1107/2009 of the European Parliament and of the Council as regards the list of approved active substances (OJ L 153, 11.6.2011, p. 1).

2. Micro-organisms or substances produced by micro-organisms

Name	Description, compositional requirement, conditions for use
Micro-organisms	Not from GMO origin
Spinosad	

3. Substances other than those mentioned in Sections 1 and 2

Name	Description, compositional requirement, conditions or restrictions to use
Aluminium silicate (Kaolin)	
Calcium hydroxide	When used as Fungicide, only in fruit trees, including nurseries, to control <i>Nectria galligena</i>
Carbon dioxide	
Copper compounds in the form of: copper hydroxide, copper oxychloride, copper oxide, Bordeaux mixture, and tribasic copper sulphate	Up to 6 kg copper per ha per year. For perennial crops, Member States may, by derogation from the previous paragraph, provide that the 6 kg copper limit can be exceeded in a given year provided that the average quantity actually used over a 5-year period consisting of that year and of the four preceding years does not exceed 6 kg.
Diammonium phosphate	Only as attractant in traps
Ethylene	Only indoor uses as plant growth regulator may be authorised. Authorisations shall be limited to professional users.
Fatty acids	All uses authorised, except herbicide

¹ obtained from sustainable fisheries and organic aquaculture

Ferric phosphate (iron (III) orthophosphate)	Preparations to be surface-spread between cultivated plants
Kieselgur (diatomaceous earth)	Not containing nanoparticles
Lime sulphur (calcium polysulphide)	
Paraffin oil	
Potassium and sodium hydrogen carbonate (aka potassium /sodium bicarbonate)	
Quartz sand	
Sulphur	

(3) Annex VIIIa is replaced by the following:

' ANNEX VIIIa

Products and substances authorised for use or addition in organic products of the wine sector referred to in Article 29c

Type of treatment in accordance with Annex I A to Regulation (EC) No 606/2009	Name of products or substances	Specific conditions, restrictions within the limits and conditions set out in Regulation (EC) No 1234/2007 and Regulation (EC) No 606/2009
Point 1: Use for aeration or oxygenation	<ul style="list-style-type: none"> — Air — Gaseous oxygen 	
Point 3: Centrifuging and filtration	<ul style="list-style-type: none"> — Perlite — Cellulose — Diatomeceous earth 	Use only as an inert filtering agent
Point 4: Use in order to create an inert atmosphere and to handle the product shielded from the air	<ul style="list-style-type: none"> — Nitrogen — Carbon dioxide — Argon 	
Points 5, 15 and 21: Use	<ul style="list-style-type: none"> — Yeasts (1) 	
Point 6: Use	<ul style="list-style-type: none"> — Di-ammonium phosphate — Thiamine hydrochloride 	
Point 7: Use	<ul style="list-style-type: none"> — Sulphur dioxide — Potassium bisulphite or potassium metabisulphite 	<p>he maximum sulphur dioxide content shall not exceed 100 milligrams per litre for red wines as referred to in point 1(a) of Part A of Annex I B to Regulation (EC) No 606/ 2009 and with a residual sugar level lower than 2 grams per litre;</p> <p>he maximum sulphur dioxide content shall not exceed 150 milligrams per litre for white and rosé wines as referred to in point 1(b) of Part A of Annex I B to Regulation (EC) No 606/2009 and with a residual sugar level lower than 2 grams per litre;</p> <p>or all other wines, the maximum sulphur dioxide content applied in accordance with Annex I B to Regulation (EC) No 606/2009 on 1 August 2010, shall be reduced by 30 milligrams per litre.</p>

Type of treatment in accordance with Annex I A to Regulation (EC) No 606/2009	Name of products or substances	Specific conditions, restrictions within the limits and conditions set out in Regulation (EC) No 1234/2007 and Regulation (EC) No 606/2009
Point 9: Use	<ul style="list-style-type: none"> — Charcoal for oenological use 	

Point 10: Clarification	<ul style="list-style-type: none"> — Edible gelatine (2) — Plant proteins from wheat or peas (2) — Isinglass (2) — Egg white albumin (2) — Tannins (2) — Potato proteins (2) — Yeast protein extracts(2) 	
	<ul style="list-style-type: none"> — Casein — Potassium caseinate — Silicon dioxide — Bentonite — Pectolytic enzymes 	
Point 12: Use for acidification purposes	<ul style="list-style-type: none"> — Lactic acid — L(+)-Tartaric acid 	
Point 13: Use for deacidification purposes	<ul style="list-style-type: none"> — L(+)-Tartaric acid — Calcium carbonate — Neutral potassium tartrate — Potassium bicarbonate 	
Point 14: Addition		
	<ul style="list-style-type: none"> — Aleppo pine resin 	
Point 15: Addition		
	<ul style="list-style-type: none"> — Inactivated yeast, autolysates of yeast and yeast hulls 	
Point 17: Use		
	<ul style="list-style-type: none"> — Lactic bacteria 	
Point 19: Addition		
	<ul style="list-style-type: none"> — L-Ascorbic acid 	

Type of treatment in accordance with Annex I A to Regulation (EC) No 606/2009	Name of products or substances	Specific conditions, restrictions within the limits and conditions set out in Regulation (EC) No 1234/2007 and Regulation (EC) No 606/2009
Point 22: Use for bubbling	<ul style="list-style-type: none"> — Nitrogen 	
Point 23: Addition	<ul style="list-style-type: none"> — Carbon dioxide 	
Point 24: Addition for wine stabilisation purposes	<ul style="list-style-type: none"> — Citric acid 	
Point 25: Addition	<ul style="list-style-type: none"> — Tannins (2) 	
Point 27: Addition	<ul style="list-style-type: none"> — Meta-tartaric acid 	
Point 28: Use	<ul style="list-style-type: none"> — Acacia gum (2) (= gum arabic) 	
Point 30: Use	<ul style="list-style-type: none"> — Potassium bitartrate 	
Point 31: Use	<ul style="list-style-type: none"> — Cupric citrate 	
Point 31: Use	<ul style="list-style-type: none"> — Copper sulphate 	Authorised until 31 July 2015
Point 35: Use	<ul style="list-style-type: none"> — Yeast mannoproteins 	
Point 38: Use	<ul style="list-style-type: none"> — Oak chips 	
Point 39: Use	<ul style="list-style-type: none"> — Potassium alginate 	

Type of treatment in accordance with Annex III, point A(2)(b) to Regulation (EC) No 606/2009	Calcium sulphate	Only for 'vino generoso' or 'vino generoso de licor'
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(¹) For the individual yeast strains: if available, derived from organic raw material. (²) Derived from organic raw material if available.