

Official Journal

of the European Union

L 224



English edition

Legislation

Volume 56

22 August 2013

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⁽¹⁾ Text with EEA relevance

EN

Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

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⁽¹⁾ Text with EEA relevance

II

(Non-legislative acts)

REGULATIONS

COMMISSION IMPLEMENTING REGULATION (EU) No 795/2013

of 21 August 2013

concerning the authorisation of choline chloride as a feed additive for all animal species

(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 nutrition ⁽¹⁾, 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 such authorisation. Article 10 of that Regulation provides for the re-evaluation of additives authorised pursuant to Council Directive 70/524/EEC ⁽²⁾.
- (2) Choline chloride was authorised without a time limit in accordance with Directive 70/524/EEC as a feed additive for use on all animal species as part of the group 'Vitamins, pro-vitamins and chemically well-defined substances having similar effect'. That product was subsequently entered in the European Union Register of Feed Additives as an existing product, in accordance with Article 10(1) of Regulation (EC) No 1831/2003.
- (3) In accordance with Article 10(2) of Regulation (EC) No 1831/2003 in conjunction with Article 7 thereof, an application was submitted for the re-evaluation of choline chloride, as a feed additive for all animal species, requesting that additive to be classified in the additive category 'nutritional additives'. That application was accompanied by the particulars and documents required under Article 7(3) of Regulation (EC) No 1831/2003.
- (4) The European Food Safety Authority ('the Authority') concluded in its opinion of 6 September 2011 ⁽³⁾ that, under the proposed conditions of use in feed, choline chloride does not have an adverse effect on animal and

consumer health, and it is not expected to pose additional risk for the environment. The Authority also concluded that no safety concerns would arise for users provided that appropriate protective measures are taken. The Authority does not consider that there is a need for specific requirements of post-market monitoring. It also verified the report on the method of analysis of the feed additive in feed submitted by the Reference Laboratory set up by Regulation (EC) No 1831/2003.

- (5) The assessment of choline chloride shows that the conditions for authorisation, as provided for in Article 5 of Regulation (EC) No 1831/2003, are satisfied. Accordingly, the use of that substance should be authorised as specified in the Annex to this Regulation.
- (6) Since safety reasons do not require the immediate application of the modifications to the conditions of authorisation, it is appropriate to allow a transitional period for the disposal of existing stocks of the additive, premixtures and compound feed containing it, as authorised by Directive 70/524/EEC.
- (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

The preparation specified in the Annex, belonging to the additive category 'nutritional additives' and to the functional group 'vitamins, pro-vitamins and chemically well-defined substances having similar effect', is authorised as an additive in animal nutrition subject to the conditions laid down in that Annex.

Article 2

The preparation specified in the Annex and feed containing that preparation, which are produced and labelled before 11 March 2014 in accordance with the rules applicable before 11 September 2013, may continue to be placed on the market and used until the existing stocks are exhausted.

⁽¹⁾ OJ L 268, 18.10.2003, p. 29.

⁽²⁾ OJ L 270, 14.12.1970, p. 1.

⁽³⁾ EFSA Journal 2011; 9(9):2353.

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*.

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

Done at Brussels, 21 August 2013.

For the Commission

The President

José Manuel BARROSO

ANNEX

Identification number of the additive	Name of the holder of authorisation	Additive	Composition, chemical formula, description, analytical method	Species or category of animal	Maximum age	Minimum content	Maximum content	Other provisions	End of period of authorisation
						mg/kg of complete feedingstuff with a moisture content of 12 %			
Category of nutritional additives. Functional group: vitamins, pro-vitamins and chemically well-defined substances having similar effect									
3a890	—	Choline chloride	<i>Additive composition</i> Preparation of choline chloride, solid and liquid forms <i>Characterisation of the active substance</i> Name: choline chloride Chemical formula: C ₅ H ₁₄ ClNO CAS No: 67-48-1 Produced by chemical synthesis Purity criteria: min. 99 %, anhydrous basis <i>Method of Analysis</i> ⁽¹⁾ For the determination of choline chloride in the feed additive, premixtures, feedingstuffs and water: ion chromatography with conductivity detection (IC-CD)	All animal species	—	—	—	1. If the preparation contains a technological additive or feed materials for which a maximum content is set or which is subject to other restrictions, the feed additive manufacturer shall provide this information to the customers. 2. In the directions for use of the additives and premixture indicate the storage and stability conditions. 3. Choline chloride may be used via water for drinking. 4. The labelling of feed for poultry and pigs containing choline chloride should indicate in the instructions of use: 'simultaneous use with water for drinking in which choline chloride has been added should be avoided'. 5. Recommended not to exceed supplemental levels of 1 000 mg of choline chloride/kg of complete feed for poultry and pigs. 6. For safety: breathing, eye and skin protection shall be used during handling.	11 September 2023

⁽¹⁾ Details of the analytical methods are available at the following address of the Reference Laboratory: http://irmm.jrc.ec.europa.eu/EURLs/EURL_feed_additives/Pages/index.aspx

COMMISSION IMPLEMENTING REGULATION (EU) No 796/2013

of 21 August 2013

concerning the denial of authorisation of the substance 3-acetyl-2,5-dimethylthiophene as a feed additive

(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 nutrition⁽¹⁾, 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 or denying such authorisation. Article 10 of that Regulation provides for the re-evaluation of additives authorised pursuant to Council Directive 70/524/EEC⁽²⁾.
- (2) The substance 3-acetyl-2,5-dimethylthiophene was authorised without a time limit in accordance with Directive 70/524/EEC as a feed additive for use on all animal species as part of the group 'Flavouring and appetising substances — All natural products and corresponding synthetic products'. That substance was subsequently entered in the European Union Register of Feed Additives as an existing product, in accordance with Article 10(1) of Regulation (EC) No 1831/2003, with CAS number 2530-10-1 and Flavis number 15.024.
- (3) In accordance with Article 10(2) of Regulation (EC) No 1831/2003 in conjunction with Article 7 thereof, an application was submitted for the re-evaluation of this substance as a feed additive for all animal species, requesting that additive to be classified in the additive category 'sensory additives' and in the functional group 'flavouring compounds'. That application was accompanied by the particulars and documents required under Article 7(3) of Regulation (EC) No 1831/2003.
- (4) The substance 3-acetyl-2,5-dimethylthiophene was also included in the list of flavouring substances in Part A of Annex I to Regulation (EC) No 1334/2008 of the European Parliament and of the Council of 16 December 2008 on flavourings and certain food ingredients with flavouring properties for use in and on foods and

amending Council Regulation (EEC) No 1601/91, Regulations (EC) No 2232/96 and (EC) No 110/2008 and Directive 2000/13/EC⁽³⁾, as a flavouring substance under evaluation for which additional scientific data had to be submitted. Such data was submitted.

- (5) The European Food Safety Authority ('the Authority') concluded in its opinion of 15 May 2013⁽⁴⁾ about the use of this substance as a flavouring substance in food that this substance is mutagenic *in vitro* and *in vivo* and that its use as a flavouring substance in food raises a safety concern.
- (6) This assessment indicates that 3-acetyl-2,5-dimethylthiophene is very likely to be mutagenic also for animals consuming feed containing this substance as a sensory additive. Consequently, it has not been established that this substance does not have an adverse effect on animal health, when used as a feed additive under the proposed conditions of use.
- (7) The conditions for authorisation, as provided for in Article 5 of Regulation (EC) No 1831/2003, are therefore not satisfied. Accordingly, the authorisation of 3-acetyl-2,5-dimethylthiophene as a feed additive should be denied.
- (8) Since further use of 3-acetyl-2,5-dimethylthiophene as a feed additive may cause a risk to animal health, it should be withdrawn from the market as soon as possible.
- (9) Taking into account practical reasons, a transitional period should be laid down to address the situation of existing stocks of feed containing the flavouring substance 3-acetyl-2,5-dimethylthiophene already in the market before the entry into force of this Regulation.
- (10) 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

Authorisation of 3-acetyl-2,5-dimethylthiophene as an additive in animal nutrition is denied.

⁽¹⁾ OJ L 268, 18.10.2003, p. 29.⁽²⁾ OJ L 270, 14.12.1970, p. 1.⁽³⁾ OJ L 354, 31.12.2008, p. 34.⁽⁴⁾ EFSA Journal 2013; 11(5):3227.

Article 2

Existing stocks of 3-acetyl-2,5-dimethylthiophene and premixtures containing it shall be withdrawn from the market as soon as possible and at the latest by 11 October 2013. Compound feed produced containing 3-acetyl-2,5-dimethylthiophene before the date of entry into force of this Regulation may be used up until stocks are exhausted and at the latest by 11 October 2013.

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*.

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

Done at Brussels, 21 August 2013.

For the Commission

The President

José Manuel BARROSO

COMMISSION IMPLEMENTING REGULATION (EU) No 797/2013

of 21 August 2013

concerning the authorisation of a preparation of *Enterococcus faecium* NCIMB 11181 as a feed additive for calves for rearing and for fattening and weaned piglets (holder of authorisation Chr. Hansen A/S) and repealing Regulation (EC) No 1333/2004

(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 nutrition ⁽¹⁾, 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 such authorisation. Article 10 of that Regulation provides for the re-evaluation of additives authorised pursuant to Council Directive 70/524/EEC ⁽²⁾.
- (2) A preparation of *Enterococcus faecium* NCIMB 11181 was authorised without a time limit in accordance with Directive 70/524/EEC as a feed additive for use on calves for rearing and for fattening and weaned piglets by Commission Regulation (EC) No 1333/2004 ⁽³⁾. That preparation was subsequently entered in the European Union Register of feed additives as an existing product, in accordance with Article 10(1)(b) of Regulation (EC) No 1831/2003.
- (3) In accordance with Article 10(2) of Regulation (EC) No 1831/2003 in conjunction with Article 7 of that Regulation, an application was submitted for the re-evaluation of that preparation as a feed additive for calves for rearing and for fattening and weaned piglets, requesting that additive to be classified in the additive category 'zootechnical additives'. That application was accompanied by the particulars and documents required under Article 7(3) of Regulation (EC) No 1831/2003.
- (4) The European Food Safety Authority ('the Authority') concluded in its opinion of 1 February 2012 ⁽⁴⁾ that, under the proposed conditions of use, the preparation of *Enterococcus faecium* NCIMB 11181 does not have an adverse effect on animal health, human health or on the environment, and that it is efficacious in improving zootechnical performance of calves for rearing and for fattening and weaned piglets. The Authority does not consider that there is a need for specific requirements of post-market monitoring. It also verified the report

on the method of analysis of the feed additive in feed submitted by the Reference Laboratory set up by Regulation (EC) No 1831/2003.

- (5) The assessment of the preparation of *Enterococcus faecium* NCIMB 11181 shows that the conditions for authorisation, as provided for in Article 5 of Regulation (EC) No 1831/2003, are satisfied. Accordingly, the use of that preparation should be authorised as specified in the Annex to this Regulation.
- (6) As a new authorisation is granted in accordance with Regulation (EC) No 1831/2003, Regulation (EC) No 1333/2004 should be repealed.
- (7) Since safety reasons do not require the immediate application of the modifications to the conditions of authorisation, it is appropriate to allow a transitional period for the disposal of existing stocks of the additive, premixtures and compound feed containing it, as authorised by Regulation (EC) No 1333/2004.
- (8) 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

The preparation specified in the Annex, belonging to the additive category 'zootechnical additives' and to the functional group 'gut flora stabilisers', is authorised as an additive in animal nutrition, subject to the conditions laid down in that Annex.

Article 2

Regulation (EC) No 1333/2004 is repealed.

Article 3

The preparation specified in the Annex and feed containing that preparation, which are produced and labelled before 11 March 2014 in accordance with the rules applicable before 11 September 2013 may continue to be placed on the market and used until the existing stocks are exhausted.

Article 4

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

⁽¹⁾ OJ L 268, 18.10.2003, p. 29.

⁽²⁾ OJ L 270, 14.12.1970, p. 1.

⁽³⁾ OJ L 247, 21.7.2004, p. 11.

⁽⁴⁾ EFSA Journal 2012; 10(2):2574.

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

Done at Brussels, 21 August 2013.

For the Commission
The President
José Manuel BARROSO

ANNEX

Identification number of the additive	Name of the holder of authorisation	Additive	Composition, chemical formula, description, analytical method	Species or category of animal	Maximum age	Minimum content	Maximum content	Other provisions	End of period of authorisation
						CFU/kg of complete feedingstuff with a moisture content of 12 %			
Category of zootechnical additives. Functional group: gut flora stabilisers									
4b1708	Chr. Hansen A/S	Enterococcus faecium (NCIMB 11181)	Additive composition Preparation of Enterococcus faecium (NCIMB 11181) containing a minimum of: Solid form: 5 × 10 ¹⁰ CFU/g of additive; Solid water soluble form: 2 × 10 ¹¹ CFU/g additive. Characterisation of the active substance Viable cells of Enterococcus faecium (NCIMB 11181). Analytical method ⁽¹⁾ Enumeration: spread plate method using Bile Esculin Azide agar (EN 15788). Identification: Pulsed-Field Gel Electrophoresis (PFGE)	Calves for rearing and for fattening	6 months	5 × 10 ⁸	—	1. In the directions for use of the additive and premixture, indicate the storage conditions and stability to pelleting and in water. 2. May be used in milk replacers for calves for rearing and for fattening. 3. For weaned piglets up to 35 kg. 4. Recommended minimum doses: — calves for rearing and for fattening: 2 × 10 ¹⁰ CFU/kg complete feed — piglets (weaned): 1 × 10 ¹⁰ – 2 × 10 ¹⁰ CFU/kg complete feed 5. The water soluble form of the preparation may be used for weaned piglets in water for drinking with a recommended minimum dose of 1 × 10 ¹⁰ – 2 × 10 ¹⁰ CFU/L 6. For user safety: breathing protection, safety glasses and gloves should be worn during handling.	11 September 2023
				Piglets (weaned)	—	5 × 10 ⁸	—		

⁽¹⁾ Details of the analytical methods are available at the following address of the Reference Laboratory for Feed Additives: www.irmm.jrc.be/eurl-feed-additives.

COMMISSION IMPLEMENTING REGULATION (EU) No 798/2013**of 21 August 2013****amending Implementing Regulation (EU) No 540/2011 as regards the conditions of approval of the active substance pyrethrins****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

Committee on the Food Chain and Animal Health and finalised on 16 July 2013 in the format of the Commission review report for pyrethrins.

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

Having regard to Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC ⁽¹⁾, and in particular Article 13(2)(c) thereof,

Whereas:

(3) It is confirmed that the active substance pyrethrins is to be deemed to have been approved under Regulation (EC) No 1107/2009.

(4) In accordance with Article 13(2) of Regulation (EC) No 1107/2009 in conjunction with Article 6 thereof and in the light of current scientific and technical knowledge, it is necessary to amend the conditions of approval of pyrethrins. In particular, it is appropriate to require further confirmatory information.

(1) The active substance pyrethrins was included in Annex I to Council Directive 91/414/EEC ⁽²⁾ by Commission Directive 2008/127/EC ⁽³⁾ in accordance with the procedure provided for in Article 24b of Commission Regulation (EC) No 2229/2004 of 3 December 2004 laying down further detailed rules for the implementation of the fourth stage of the programme of work referred to in Article 8(2) of Council Directive 91/414/EEC ⁽⁴⁾. Since the replacement of Directive 91/414/EEC by Regulation (EC) No 1107/2009, this substance is deemed to have been approved under that Regulation and is listed in Part A of the Annex to 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 ⁽⁵⁾.

(5) The Annex to Implementing Regulation (EU) No 540/2011 should therefore be amended accordingly.

(6) A reasonable period of time should be allowed before the application of this Regulation in order to allow Member States, notifiers and holders of authorisations for plant protection products containing pyrethrins to meet the requirements resulting from amendment to the conditions of the approval.

(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,

(2) In accordance with Article 25a of Regulation (EC) No 2229/2004, the European Food Safety Authority, hereinafter 'the Authority', presented to the Commission its view on the draft review report for pyrethrins ⁽⁶⁾ on 12 December 2012. The Authority communicated its view on pyrethrins to the notifier. The Commission invited it to submit comments on the draft review report for pyrethrins. The draft review report and the view of the Authority were reviewed by the Member States and the Commission within the Standing

HAS ADOPTED THIS REGULATION:

Article 1

Part A of the Annex to Implementing Regulation (EU) No 540/2011 is amended in accordance with the Annex to this Regulation.

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*.

It shall apply from 1 January 2014.

⁽¹⁾ OJ L 309, 24.11.2009, p. 1.

⁽²⁾ OJ L 230, 19.8.1991, p. 1.

⁽³⁾ OJ L 344, 20.12.2008, p. 89.

⁽⁴⁾ OJ L 379, 24.12.2004, p. 13.

⁽⁵⁾ OJ L 153, 11.6.2011, p. 1.

⁽⁶⁾ European Food Safety Authority; Conclusion on the peer review of the pesticide risk assessment of the active substance pyrethrins. EFSA Journal 2013;11(1):3032 [76 pp.] doi:10.2903/j.efsa.2013.3032. Available online: www.efsa.europa.eu/efsajournal

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

Done at Brussels, 21 August 2013.

For the Commission

The President

José Manuel BARROSO

ANNEX

In Part A of the Annex to Implementing Regulation (EU) No 540/2011, row 246 on the active substance pyrethrins is replaced by the following:

Number	Common Name, Identification Numbers	IUPAC Name	Purity	Date of approval	Expiration of approval	Specific provisions
246	Pyrethrins: 8003-34-7 CIPAC No 32 Extract A: extractives of Chrysanthemum cinerariaefolium: 89997- 63-7 Pyrethrin 1: CAS 121- 21-1 Pyrethrin 2: CAS 121- 29-9 Cinerin 1: CAS 25402- 06-6 Cinerin 2: CAS 121- 20-0 Jasmolin 1: CAS 4466- 14-2 Jasmolin 2: CAS 1172- 63-0 Extract B: Pyrethrin 1: CAS 121-21-1 Pyrethrin 2: CAS 121- 29-9 Cinerin 1: CAS 25402- 06-6 Cinerin 2: CAS 121- 20-0 Jasmolin 1: CAS 4466- 14-2 Jasmolin 2: CAS 1172- 63-0	Pyrethrins are a complex mixture of chemical substances.	Extract A: ≥ 500 g/kg Pyrethrins Extract B: ≥ 480 g/kg Pyrethrins	1 September 2009	31 August 2019	PART A Only uses as insecticide may be authorised. PART B For the implementation of the uniform principles as referred to in Article 29(6) of Regulation (EC) No 1107/2009, the conclusions of the review report on pyrethrins (SANCO/2627/2008) and in particular Appendices I and II thereof, as finalised in the Standing Committee on the Food Chain and Animal Health shall be taken into account. In this overall assessment Member States shall pay particular attention to: (a) the risk to operators and workers; (b) the risk to non-target organisms. Conditions of use shall, where appropriate, include the application of adequate personal protective equipment and other risk mitigation measures. The applicant shall submit confirmatory information as regards: (1) the specification of the technical material, as commercially manufactured including information on any relevant impurities and its equivalence with the specifications of the test material used in the toxicity studies; (2) the risk from inhalation; (3) the residue definition; (4) the representativeness of the major component “pyrethrin 1” as regards the fate and behaviour in soil and water. The applicant shall submit to the Commission, the Member States and the Authority the information set out in points (1) by 31 March 2014 and the information set out in points (2), (3) and (4) by 31 December 2015.’

COMMISSION IMPLEMENTING REGULATION (EU) No 799/2013**of 21 August 2013****establishing the standard import values for determining the entry price of certain fruit and vegetables**

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) ⁽¹⁾,

Having regard to Commission Implementing Regulation (EU) No 543/2011 of 7 June 2011 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 in respect of the fruit and vegetables and processed fruit and vegetables sectors ⁽²⁾, and in particular Article 136(1) thereof,

Whereas:

- (1) Implementing Regulation (EU) No 543/2011 lays down, pursuant to the outcome of the Uruguay Round multi-lateral trade negotiations, the criteria whereby the

Commission fixes the standard values for imports from third countries, in respect of the products and periods stipulated in Annex XVI, Part A thereto.

- (2) The standard import value is calculated each working day, in accordance with Article 136(1) of Implementing Regulation (EU) No 543/2011, taking into account variable daily data. Therefore this Regulation should enter into force on the day of its publication in the *Official Journal of the European Union*,

HAS ADOPTED THIS REGULATION:

Article 1

The standard import values referred to in Article 136 of Implementing Regulation (EU) No 543/2011 are fixed in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the day 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, 21 August 2013.

*For the Commission,
On behalf of the President,*

Jerzy PLEWA
*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 157, 15.6.2011, p. 1.

ANNEX

Standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)

Code NC	Code des pays tiers ⁽¹⁾	Valeur forfaitaire à l'importation
0709 93 10	TR	118,4
	ZZ	118,4
0805 50 10	AR	118,7
	CL	110,2
	TR	70,0
	UY	138,4
	ZA	106,6
	ZZ	108,8
0806 10 10	EG	181,7
	MA	135,8
	TR	147,3
	ZZ	154,9
0808 10 80	AR	203,2
	BR	114,7
	CL	147,3
	CN	88,4
	NZ	124,1
	US	129,8
	ZA	120,6
	ZZ	132,6
0808 30 90	AR	196,9
	CL	148,9
	TR	152,7
	ZA	94,4
	ZZ	148,2
0809 30	TR	143,3
	ZZ	143,3
0809 40 05	BA	51,7
	MK	74,4
	TR	101,0
	ZZ	75,7

⁽¹⁾ Nomenclature of countries laid down by Commission Regulation (EC) No 1833/2006 (OJ L 354, 14.12.2006, p. 19). Code 'ZZ' stands for 'of other origin'.

DECISIONS

COMMISSION DECISION

of 21 August 2013

on the establishment of the annual priority lists for the development of network codes and guidelines for 2014

(Text with EEA relevance)

(2013/442/EU)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 714/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the network for cross-border exchanges in electricity and repealing Regulation (EC) No 1228/2003 ⁽¹⁾ and Regulation (EC) No 715/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to natural gas transmission networks and repealing Regulation (EC) No 1775/2005 ⁽²⁾, and in particular Article 6(1) thereof,

Whereas:

CONTEXT

- (1) The European Council on 4 February 2011 set 2014 as a target for the completion of the internal market for electricity and gas. The Third Energy Package is an important element in the development towards this target. However, further efforts have to be made to allow gas and electricity to flow freely across Europe. The network codes and guidelines which are foreseen by the Third Package will provide the relevant rules for this further development.
- (2) As a first step towards binding European network codes, an annual priority list identifying the areas to be included in the development of network codes has to be established by the Commission in accordance with Article 6(1) of Regulation (EC) No 714/2009 ('the Electricity Regulation') and Article 6(1) of Regulation (EC) No 715/2009 ('the Gas Regulation'). In setting the priorities, the Commission has to consult the Agency for the Cooperation of Energy Regulators ('ACER'), the responsible European Network of Transmission System Operators ('ENTSOs') and other relevant stakeholders. This decision sets out the priorities as decided by the Commission based on the outcome from the public consultation.

- (3) For the planning of resources it is important to identify annually the key areas for the development of network codes and guidelines. As soon as an area is identified as important for the first time, scoping work needs to be started in order to identify to what extent a harmonisation is needed. Key areas where the work on network codes and guidelines has already started will be continued and completed.

PUBLIC CONSULTATION

- (4) The public consultation, as required by Article 6(1) of the Electricity and the Gas Regulation, took place from 2 April to 13 May 2013. The Commission received 22 responses ⁽³⁾.
- (5) The following were the major general comments received during the public consultation:
 - (a) A clear message from the public consultation was that stakeholders supported the focused approach of the Commission prioritising the work to deliver key elements that are necessary for the completion of the internal energy market. Stakeholders are of the view that the Commission has pointed out in its consultation the most important tasks to be done for further integration of the internal energy market and no more tasks should be added to the annual priority lists for 2014.
 - (b) Several stakeholders are emphasising the importance of a proper implementation of already adopted network codes, some of them calling for a more active role of the Commission and ACER in ensuring a coherent implementation. Furthermore, stakeholders seek clarity on future amendments of adopted network codes and what the governance would be. One stakeholder states the urgent need for a global and unique definitions list valid for all network codes.

⁽¹⁾ OJ L 211, 14.8.2009, p. 15.

⁽²⁾ OJ L 211, 14.8.2009, p. 36.

⁽³⁾ The responses are published under http://ec.europa.eu/energy/gas_electricity/consultations/20130513_network_codes_en.htm

- (c) Several stakeholders stressed the importance of a transparent, efficient and coherent process which guarantees early and close stakeholder involvement. It was also mentioned that the necessary timeslots for the development of robust network codes, with sufficient time for consultation of involved actors need to be given. In this context stakeholders requested that draft proposals for the framework guidelines and network codes should be accompanied by the relevant Impact Assessment which has been subject to stakeholder consultation.
- (6) The following were the major comments concerning the annual priority list for 2014 regarding electricity network rules received during the public consultation:
- (a) Several stakeholders expressed concerns that the network codes under development do not provide for a sufficient level of harmonisation on a European level, pointing at the fact that many decisions (e.g. on values and methodologies) are not taken in the code itself but left open to a further decision making/approval process by TSOs and national regulatory authorities. Stakeholders fear that this could lead to a supplementary regulatory layer at European level, adding rather than solving existing diversity in network management and market design rules.
- (b) Some stakeholders were concerned about possible inconsistencies between network codes and stated that developing several network codes under the same framework guideline has proven not be the most efficient way to establish European rules and therefore proposed to develop only one network code in line with the respective framework guideline. Some emphasised that in order to ensure the consistency at least some network codes need to be developed together such as the rules on requirement for generators, rules for longer term (forward) capacity allocation, balancing rules and rules on emergency requirements.
- (c) Several stakeholders support the development of rules regarding harmonised transmission tariff structures, as the existing variety of tariff structures creates inequalities for electricity generators within the EU as some need, for example, to pay grid tariffs and others not.
- (d) ENTSO-E expressed its concern that the annual priority list for 2014 does not include rules on investment incentives while they were part of the list for 2013. ENTSO-E is of the opinion that relying on the process set up by the new Regulation
- on guidelines for trans-European energy infrastructure⁽¹⁾ ('TEN-E Regulation'), by which the EC may issue guidelines in case it considers that the methodology to be published by 31 March 2014 by the national regulatory authorities on the basis of best practice recommendations from ACER, is not sufficient to ensure the timely implementation of projects of common interests, endangers the efficiency of the entire TEN-E Regulation.
- (7) The following were the major comments concerning the annual priority list for 2014 regarding gas network rules received during the public consultation:
- (a) The majority of stakeholders welcome that incremental capacity has been put on the annual priority list for 2014 and emphasise that rules need to be thoroughly consulted on with stakeholders in their preparation and be coherent with the network code on capacity allocation mechanisms. Several stakeholders including ENTSG point out the strong interaction of rules on tariffs and incremental capacity and that care needs to be given to the consistency between both topics.
- (b) Several stakeholders including ENTSG support the undertaking of a scoping exercise on rules for trading in 2014 in order to identify whether harmonised European rules for the design of capacity products and contracts as regards firmness, restrictions to allocation and secondary markets are needed. The scoping shall take into account the experience gained from implementing the network code on capacity allocation mechanisms and on balancing and the possible impacts of increasing renewable penetration in electricity markets. One stakeholder proposes to undertake a step-by-step analysis of the differences in contractual terms and transmission system operators processes at each Interconnections Point. ENTSG calls for recognising the fact that mismatches of capacity and different levels of firmness are an inevitable consequence of implementation entry-exit systems. One stakeholder raised strong opposition with regard to the further harmonisation of the design of capacity products and contracts as it is not required and would lead to an insufficient offer of firm capacity and finally to inefficient investments. Furthermore it was stated that rules for trading should avoid adding complexity to the process of implementation of Regulation (EU) No 1227/2011 of the European Parliament and of the Council⁽²⁾ on Energy Market Integrity and Transparency.

⁽¹⁾ OJ L 115, 25.4.2013, p. 39.

⁽²⁾ OJ L 326, 8.12.2011, p. 1.

- (c) One stakeholder calls for a network code for gas quality and a network code for benchmark-related efficiencies including its tariffs in order to achieve the goal of an internal market in an efficient and effective manner, suggesting as a first step to mandate ACER to do a comparison of all European TSOs, including all provided services.
- (d) One stakeholder suggests including in the priority list the development of guidelines to solve the situation of the historical contracts, in accordance with Article 23(1) of Regulation (EC) No 715/2009.
- (8) Even though this decision focuses only on setting the annual priority lists for 2014, the Commission also consulted stakeholders on the need and possible scope of network codes and guidelines which could be envisaged as key areas beyond 2014 in order to enable ACER to foresee scoping work in its work programme for 2014.
- (9) The following were the major comments concerning possible scope and need of network codes and guidelines beyond 2014 regarding electricity network rules received during the public consultation:
- (a) Some stakeholders welcome rules on setting the principles to judge the adequacy of transmission networks, and thus the requirement towards third parties. Other stakeholders are of the opinion that rules on reserves, adequacy and capacity mechanisms are not included in Article 8(6) of the Electricity and Gas Regulation and therefore do not appear legally sound, instead falling in the remit of national governments.
- (b) Several stakeholders are asking for clarification what will be included in the rules on operational coordination.
- (c) One stakeholder proposes to develop rules on procurement, trading and governance of ancillary services as well as all types of flexibility and capability services with the overall aim of developing a European market for grid support services, including balancing and all types of flexibility services.
- (10) The following were the major comments concerning possible scope and need of network codes and guidelines beyond 2014 regarding gas network rules received during the public consultation:
- (a) Several stakeholders were of the opinion that rules on network connection and emergency procedures

have to be coherent with Regulation (EU) No 994/2010 of the European Parliament and of the Council⁽¹⁾ concerning measures to safeguard security of gas supply.

- (b) Stakeholders were questioning the scope of network connection rules with respect to provide locational signals and were not supporting development of such rules.

DECISION

- (11) Having regard to the responses of stakeholders supporting the prioritisation of the work to deliver key elements that are necessary for the completion of the internal energy market by 2014 and recognising the various actions needed towards its completion, the limits to resources, the fact that already adopted network codes and guidelines will require resources in order to be properly implemented, and the fact that any new area that is added to the annual priority list 2014 may not result in a guideline or network code being adopted by 2014,

HAS ADOPTED THIS DECISION:

Article 1

The Commission establishes for the development of harmonised electricity rules this annual priority list for 2014:

- capacity allocation and congestion management rules including governance for day-ahead and intraday markets including capacity calculation (Commission adoption phase),
- network connection rules:
 - rules on requirements for generators (Commission adoption phase)
 - rules on distribution system operator and industrial load connection (Commission adoption phase)
 - rules on high-voltage direct current transmission system connection (finalise network code and start Commission adoption phase),
- system operation rules⁽²⁾:
 - rules on operational security (Commission adoption phase)
 - rules on operational planning and scheduling (Commission adoption phase)

⁽¹⁾ OJ L 295, 12.11.2010, p. 1.

⁽²⁾ Rules on operational training and on requirements and operational procedures in emergency will follow later.

- rules on load-frequency control and reserves (Commission adoption phase)
- rules on emergency requirements and procedures (finalise network code and start Commission adoption phase),
- balancing rules including network-related reserve power (Commission adoption phase),
- rules for longer term (forward) capacity allocation (Commission adoption phase),
- rules regarding harmonised transmission tariff structures (scoping by ACER to prepare framework guideline ⁽¹⁾).

Article 2

As it is foreseen that harmonised rules on capacity allocation and balancing will be adopted in 2013, the Commission establishes for the development of harmonised gas rules this annual priority list for 2014:

- interoperability and data exchange rules (Commission adoption phase),
- rules regarding harmonised transmission tariff structures (ENTSOG drafting network code),
- rules regarding an EU-wide market-based approach on the allocation of 'new build' gas transmission capacity (drafting

of amendment of network code on capacity allocation mechanisms by ACER and ENTSOG as well as including respective tariff rules in the network code on transmission tariff structures),

- rules for trading related to technical and operational provisions of network access services and system balancing (scoping by ACER to identify whether binding EU rules for the further harmonisation of the design of capacity products and contracts as regards firmness, restrictions to allocation or secondary markets are needed, taking into account the implementation of the guideline on congestion management procedures and the network codes on capacity allocation mechanisms and on balancing).

Article 3

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

Done at Brussels, 21 August 2013.

For the Commission

The President

José Manuel BARROSO

⁽¹⁾ Regarding rules on investment incentives, the TEN-E Regulation notably Article 13, provides for rules to ensure that appropriate incentives are granted to infrastructure projects of common interest in gas and electricity, which are subject to higher risks than normally incurred. In this context, the TEN-E Regulation sets out the following tasks:

- each national regulatory authority to submit to ACER its methodology and criteria used to evaluate investments and the higher risks incurred by them, where available, by 31 July 2013,
- ACER to facilitate the sharing of good practices and to make recommendations by 31 December 2013,
- each national regulatory authority to publish its respective methodology and the criteria used to evaluate investments and the higher risks incurred by them by 31 March 2014.

Based on the input from the abovementioned tasks, the European Commission will decide whether legally binding guidelines need to be issued.

NOTICE TO READERS

Council Regulation (EU) No 216/2013 of 7 March 2013 on the electronic publication of the *Official Journal of the European Union*

In accordance with Council Regulation (EU) No 216/2013 of 7 March 2013 on the electronic publication of the *Official Journal of the European Union* (OJ L 69, 13.3.2013, p. 1), as of 1 July 2013, only the electronic edition of the Official Journal shall be considered authentic and shall have legal effect.

Where it is not possible to publish the electronic edition of the Official Journal due to unforeseen and exceptional circumstances, the printed edition shall be authentic and shall have legal effect in accordance with the terms and conditions set out in Article 3 of Regulation (EU) No 216/2013.

NOTE TO READERS — WAY OF REFERRING TO ACTS

As of 1 July 2013 the way of referring to acts has changed.

During a transitional period this new practice will coexist with the previous one.

EUR-Lex (<http://new.eur-lex.europa.eu>) offers direct access to European Union legislation free of charge. The *Official Journal of the European Union* can be consulted on this website, as can the Treaties, legislation, case-law and preparatory acts.

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