

COMMISSION IMPLEMENTING REGULATION (EU) 2023/1171**of 15 June 2023****amending Implementing Regulations (EU) 2018/982 and (EU) 2021/2097 as regards the combined use of a preparation of benzoic acid, calcium formate and fumaric acid with other additives containing benzoic acid, formic acid, fumaric acid and sources thereof or salts thereof (holder of the authorisation Novus Europe NV)****(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) Commission Implementing Regulations (EU) 2018/982 ⁽²⁾ and (EU) 2021/2097 ⁽³⁾ authorised the use of a preparation of benzoic acid, calcium formate and fumaric acid as a feed additive for chickens for fattening, chickens reared for laying, turkeys for fattening and turkeys reared for breeding for a 10-year period.
- (2) The Annexes to Implementing Regulations (EU) 2018/982 and (EU) 2021/2097 provide, in their respective column 'other provisions', that the additive is not to be used with other sources of benzoic acid or benzoates, calcium formate, formates and fumaric acid. This is to prevent exceeding the maximum dose by using other additives that contain those substances or sources thereof.
- (3) That restriction is justified for benzoic acid and benzoates as the additive contains a high level of benzoic acid in its composition, but it is not justified for the other substances, calcium formate, formates and fumaric acid, as the additive contains very low levels of calcium formate and fumaric acid. In order to ensure proportionality, the prohibition to combine with other additives should apply only to other additives containing benzoic acid and benzoates. The combination of this additive with other additives containing formic acid, formates, fumaric acid and fumarates should be allowed provided that in complete feedingstuffs the levels of 10 000 mg/kg for formic acid and 20 000 mg/kg for fumaric acid are not exceeded for chickens for fattening, chickens reared for laying, turkeys for fattening and turkeys reared for breeding. When the additive contains salts of formic and fumaric acids, those levels should not be exceeded either.
- (4) Formates (salts of formic acid) are sources of formic acid and fumarates (salts of fumaric acid) are sources of fumaric acid. It is necessary to harmonise the existing authorisations to ensure that the maximum levels of those acids and of all possible sources of those acids (salts of those acids) are not exceeded. In Implementing Regulation (EU) 2018/982 the restriction in the column 'other provisions' refers to the use of the preparation with other additives containing sources of calcium formate, formate and fumaric acid. As the calcium formate is already included in the term formate (salt of formic acid) and there may be other formates that can be a source of formic acid, the new restriction should apply to formates in general. In addition, the restriction should apply to fumaric acid and to fumarates as fumarates may be also a source of fumaric acid. In Implementing Regulation (EU) 2021/2097 in the

⁽¹⁾ OJ L 268, 18.10.2003, p. 29.

⁽²⁾ Commission Implementing Regulation (EU) 2018/982 of 11 July 2018 concerning the authorisation of the preparation of benzoic acid, calcium formate and fumaric acid as feed additive for chickens for fattening and chickens reared for laying (holder of the authorisation Novus Europe NV) (OJ L 176, 12.7.2018, p. 13).

⁽³⁾ Commission Implementing Regulation (EU) 2021/2097 of 29 November 2021 concerning the authorisation of the preparation of benzoic acid, calcium formate and fumaric acid as a feed additive for turkeys for fattening and turkeys reared for breeding (holder of the authorisation Novus Europe NV) (OJ L 427, 30.11.2021, p. 190).

column 'other provisions' the restriction refers to the use of the preparation with other additives containing sources of calcium formate or formic acid and fumaric acid. In order to be coherent, it is necessary to extend the new proposed restriction to formates and fumarates and eliminate the reference to calcium formate as this substance is already covered by the reference to formates.

- (5) Implementing Regulations (EU) 2018/982 and (EU) 2021/2097 should therefore be amended accordingly.
- (6) 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

Implementing Regulation (EU) 2018/982 is amended in accordance with point (1) of the Annex to this Regulation.

Article 2

Implementing Regulation (EU) 2021/2097 is amended in accordance with point (2) of the Annex to this Regulation.

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, 15 June 2023.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX

1. In the Annex to Implementing Regulation (EU) 2018/982, in the ninth column 'other provisions', point 2 is replaced by the following:
'2. The additive shall not be used with other sources of benzoic acid or benzoates. When the additive is used with other sources of formates, formic acid, fumaric acid and fumarates, the following overall contents in complete feedingstuffs shall not be exceeded:
 - 10 000 mg/kg of formic acid and
 - 20 000 mg/kg of fumaric acid.'

 2. In the Annex to Implementing Regulation (EU) 2021/2097, in the ninth column 'other provisions', point 2 is replaced by the following:
'2. The additive shall not be used with other sources of benzoic acid or benzoates. When the additive is used with other sources of formates, formic acid, fumaric acid and fumarates, the following overall contents in complete feedingstuffs shall not be exceeded:
 - 10 000 mg/kg of formic acid and
 - 20 000 mg/kg of fumaric acid.'
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