Commission Regulation (EU) 2017/1262 of 12 July 2017 amending Regulation (EU) No 142/2011 as regards the use of manure of farmed animals as a fuel in combustion plants (Text with EEA relevance)

COMMISSION REGULATION (EU) 2017/1262

of 12 July 2017

amending Regulation (EU) No 142/2011 as regards the use of manure of farmed animals as a fuel in combustion plants

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 1069/2009 of the European Parliament and of the Council of 21 October 2009 laying down health rules as regards animal by-products and derived products not intended for human consumption and repealing Regulation (EC) No 1774/2002 (Animal by-products Regulation)[(1)], and in particular Article 15(1)(e) and Article 27(i) thereof,

Whereas:

(1) Commission Regulation (EU) No 142/2011[(2)], lays down rules implementing Regulation (EC) No 1069/2009 including parameters for the disposal of animal by-products as well as for safe treatment, transformation or processing of animal by-products into derived products.

(2) In accordance with Regulation (EC) No 1069/2009, combustion as defined in point 41 of Annex I to Regulation (EU) No 142/2011 is one of the processes to dispose of animal by-products, including manure.

(3) Article 6 of Regulation (EU) No 142/2011 provides for the rules for approval of combustion plants using animal by-products as a fuel. Its paragraph 8 should be amended accordingly to address the use of manure of any farmed animals as a fuel.

(4) Manure of farmed animals may present a sustainable source of fuel for combustion, provided the combustion process complies with specific requirements to efficiently reduce adverse effects of its use as a fuel on animal and public health and the environment. Commission Regulation (EU) No 592/2014[(3)] introduced requirements for the use of poultry manure as a fuel in combustion plants. It sets out general requirements for any plant using animal by-products or derived products as fuel and specific requirements for the type of fuel and the type of combustion plant. Manure of farmed animals of species other than poultry may now also be used as a fuel in combustion plants with a total rated thermal input not exceeding 50 MW, under the same conditions as set out for the combustion of poultry manure, including the emission limits and monitoring requirements.

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EU) 2017/1262. (See end of Document for details)*

(5) Operators of combustion plants using manure of farmed animals as fuel should take the necessary hygiene measures to prevent spread of possible pathogens. In this respect, such plants should comply with the general requirements for the use of animal by-products and derived products as a fuel as laid down in Chapter IV of Annex III to Regulation (EU) No 142/2011 and specific requirements for particular types of plants and fuels that may be used for combustion to be provided for by this Regulation.

(6) The combustion of manure of herbivores, due to its composition, produces higher emissions of particulate matter than the combustion of poultry manure. To address that problem, this Regulation should provide for more flexible emission limit values of particulate matter for very small combustion plants, in order to allow disposal of the manure which could not otherwise be disposed of as fuel for combustion.

(7) Similarly, this Regulation should allow the competent authorities to grant existing combustion plants a transitional period to comply with requirements on controlled temperature rising of the gas, provided that those emissions do not present risks to public and animal health or the environment. The animal by-products legislation does not prevent Member States from applying the relevant calculation rules for emission limit values, set out in the environmental legislation, when manure of farmed animals is combusted together with other fuels or waste.

(8) Annex XVI to Regulation (EU) No 142/2011 provides for specific requirements for official controls. Following the introduction of requirements for the combustion of manure of farmed animals as a fuel by this Regulation, those specific requirements should also apply with respect to that process.

(9) Annexes III and XVI to Regulation (EU) No 142/2011 should be amended accordingly.

(10) 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

In Regulation (EU) No 142/2011, in Article 6, paragraph 8 is replaced by the following:

8. For the use of manure of farmed animals as a fuel for combustion as set out in Chapter V of Annex III, the following rules shall apply in addition to those referred to in paragraph 7 of this Article:

a the application for approval that is submitted by the operator to the competent authority in accordance with Article 24(1)(d) of Regulation (EC) No 1069/2009 must contain evidence certified by the competent authority or by a professional organisation authorised by the competent authorities of the Member State, that the combustion plant in which the manure of farmed animals is used as a fuel fully meets the requirements laid down in points B(3), B(4) and B(5) of Chapter V of Annex III to this Regulation, without prejudice to the possibility for the competent authorities of the Member State to grant a derogation from compliance with certain provisions in accordance with point C(4) of Chapter V of Annex III;

b the procedure for approval provided for in Article 44 of Regulation (EC) No 1069/2009 shall not be completed until at least two consecutive checks, one of them unannounced,

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have been carried out by the competent authority or by a professional organisation authorised by that authority, during the first six months of the operating of the combustion plant, including the necessary temperature and emission measurements. After the results of those checks showed compliance with the requirements set out in points B(3), B(4) and B(5) and, where applicable, with point C(4) of Chapter V of Annex III to this Regulation, full approval can be granted.

Article 2

Annexes III and XVI to Regulation (EU) No 142/2011 are amended in accordance with the text in 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, 12 July 2017.

For the Commission

The President

Jean-Claude JUNCKER