Commission Implementing Regulation (EU) No 354/2014 of 8 April 2014 amending and correcting 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

COMMISSION IMPLEMENTING REGULATION (EU) No 354/2014

of 8 April 2014

amending and correcting 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

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 2092/91[(1)], and in particular Articles 12(3), 14(2), 16(1) and (3)(a) thereof,

Whereas:

(1) Chapter 2 of Title III of Regulation (EC) No 834/2007 lays down basic requirements with regard to farm production. The detailed rules for the implementation of those basic requirements have been established by Commission Regulation (EC) No 889/2008[(2)].

(2) Article 12 of Regulation (EC) No 834/2007 allows the use of farm-inputs such as fertilisers, soil conditioners and plant protection products under certain conditions, provided that they have been authorised for use in organic production. In accordance with the procedure provided for in Article 16(3) of that Regulation, Member States have submitted dossiers to the other Member States and the Commission, in view of including certain products in Annexes I and II to Regulation (EC) No 889/2008. Those dossiers have been examined by the Expert group for technical advice for organic production (hereinafter 'EGTOP').

(3) Based on the recommendations of the EGTOP[(3)], which concluded as regards fertilisers and soil conditioners that the substances biogas digestate, hydrolysed proteins from animal by-product origin, leonardite, chitin and sapropel comply with the organic objectives and principles, those substances should be included in Annex I to Regulation (EC) No 889/2008 for use under certain specific conditions.

(4) Based on the recommendations of the EGTOP, the limit of '0' for chromium (VI) relating to certain substances listed in Annex I to Regulation (EC) No 889/2008 should be replaced with 'not detectable'.

(5) For plant protection products, the EGTOP concluded in its recommendations[(4)] that the substances sheep fat, laminarin and aluminium silicate (Kaolin) comply with the organic

objectives and principles. Therefore, those substances should be included in Annex II to Regulation (EC) No 889/2008 for use under certain specific conditions.

(6) As regards the horizontal legislation for plant protection products, Commission Implementing Regulation (EU) No 540/2011[(5)] established a Union list of active substances previously included in Annex I to Council Directive 91/414/EEC[(6)] and of active substances approved under Regulation (EC) No 1107/2009 of the European Parliament and of the Council[(7)]. It is appropriate to adapt the relevant parts of Annex II to Regulation (EC) No 889/2008 to that list. In particular, gelatine, rotenone extracted from *Derris* spp. and *Lonchocarpus* spp. and *Terphrosia* spp., diammonium phosphate, copper octanoate, potassium aluminium (aluminium sulphate, kalinite), mineral oils and potassium permanganate should be deleted from that Annex.

(7) As regards the active substances lecithin, quassia extracted from *Quassia amara* and calcium hydroxide for which applications for approval have been already submitted to the Commission under Regulation (EC) No 1107/2009, it is appropriate at this stage to keep them exceptionally on the list in Annex II to Regulation (EC) No 889/2008 until their assessment is finalised. In view of the conclusions of the assessment the Commission will take appropriate action regarding the presence of the three substances concerned on the list in Annex II to Regulation (EC) No 889/2008.

(8) In the light of that horizontal legislation, it is also appropriate to adapt the name, description, compositional requirement and conditions of use for certain substances and micro-organisms listed in Annex II to Regulation (EC) No 889/2008, in particular for, plant oils, micro-organisms used for biological pest and disease control, pheromones, copper, ethylene, paraffin oil and potassium bicarbonate.

(9) Article 24(2) of Regulation (EC) No 889/2008 was amended by Commission Implementing Regulation (EU) No 505/2012[(8)] in order to update the references to Annexes V and VI to Regulation (EC) No 889/2008, which had been replaced by Implementing Regulation (EU) No 505/2012. In the amended wording of Article 24(2) of Regulation (EC) No 889/2008, 'homeopathic products' had erroneously been omitted. Since those products appeared in that provision before the amendment by Implementing Regulation (EU) No 505/2012, they need to be reinserted.

(10) In Annex V to Regulation (EC) No 889/2008 as amended by Implementing Regulation (EU) No 505/2012, the former entries defluorinated monocalciumphosphate and defluorinated dicalciumphosphate have been erroneously replaced by a generic description, namely defluorinated phosphate. However, defluorinated phosphate is not equivalent to the products defluorinated monocalciumphosphate and defluorinated dicalciumphosphate. Therefore, those two products should be reinserted into Annex V to Regulation (EC) No 889/2008 and defluorinated phosphate deleted.

(11) Commission Implementing Regulation (EU) No 651/2013[(9)] has deleted the former authorisation for clinoptilolite from Commission Regulation (EC) No 1810/2005[(10)], has expanded its use as an additive in animal nutrition to all animal species and has changed its code to 1g568. Therefore, in order to allow a continuous use of clinoptilolite in organic production, Annex VI to Regulation (EC) No 889/2008 needs to be adapted in accordance with Implementing Regulation (EU) No 651/2013.

(12) Regulation (EC) No 889/2008 should therefore be amended and corrected accordingly.

(13) For the sake of legal certainty, the correction of Article 24(2) and Annex V to Regulation (EC) No 889/2008 should apply from the date of entry into force of Implementing Regulation (EU) No 505/2012.

(14) The measures provided for in this Regulation are in accordance with the opinion of the regulatory Committee on organic production,

HAS ADOPTED THIS REGULATION:

Article 1

Amendment of Regulation (EC) No 889/2008

Annexes I, II, and VI to Regulation (EC) No 889/2008 are amended in accordance with points 1, 2 and 4 of the Annex to this Regulation.

Article 2

Correction of Regulation (EC) No 889/2008

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

(1) in Article 24, paragraph 2 is replaced by the following:

2. Phytotherapeutic and homeopathic products, trace elements and products listed in Section 1 of Annex V and in Section 3 of Annex VI shall be used in preference to chemically-synthesised allopathic veterinary treatment or antibiotics, provided that their therapeutic effect is effective for the species of animal, and the condition for which the treatment is intended.;

(2) Annex V is amended in accordance with point 3 of the Annex to this Regulation.

Article 3

Entry into force and application

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

However, Article 2 shall apply from 16 June 2012.

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

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) No 354/2014. (See end of Document for details)*

Done at Brussels, 8 April 2014.

For the Commission

The President

José Manuel BARROSO

ANNEX

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

(1) Annex I is amended as follows:

(a) the row relating to ‘Composted or fermented household waste’ is replaced by the following:

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

(b) after the row relating to ‘Composted or fermented mixture of vegetable matter’, the following row is inserted:

‘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

a 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) (OJ L 300, 14.11.2009, p. 1).

b Commission Regulation (EU) No 142/2011 of 25 February 2011 implementing Regulation (EC) No 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and implementing Council Directive 97/78/EC as regards certain samples and items exempt from veterinary checks at the border under that Directive (OJ L 54, 26.2.2011, p. 1).’;