Commission Regulation (EU) No 294/2013 of 14 March 2013 amending and correcting Regulation (EU) No 142/2011 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 (Text with EEA relevance)

COMMISSION REGULATION (EU) No 294/2013

of 14 March 2013

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(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 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[(1)], and in particular Article 5(2), points (b) and (c) of the first subparagraph of Article 15(1) and the second subparagraph of Article 15(1), Article 18(3), points (a), (b) and (c) of the first subparagraph of Article 19(4) and the second subparagraph of Article 19(4), Articles 21(6)(c) and 32(3)(a), point (d) of the first subparagraph of Article 40, the first and third subparagraphs of Article 41(3) and Articles 42(2) and 45(4) thereof,

Whereas:

(1) Regulation (EC) No 1069/2009 lays down public and animal health rules for animal by-products and derived products, in order to prevent and minimise risks to public and animal health arising from those products. It also provides for the determination of an end point in the manufacturing chain for certain derived products, beyond which they are no longer subject to the requirements of that Regulation.

(2) 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[(2)], lays down implementing rules for Regulation (EC) No 1069/2009, including rules on the determination of end points for certain derived products.

(3) In its opinion of 7 February 2011 on the capacity of oleochemical processes to minimise possible risks linked to TSE in Category 1 animal by-products[(3)], the European Food Safety Authority (EFSA) concluded that the risks concerning the spread of Transmissible Spongiform Encephalopathy (TSE) are significantly reduced after processing Category 1 material with hydrolytic fat splitting and hydrogenation. However, some uncertainties exist with regard to the reduction of TSE infectivity in oleochemical products derived from Category 1 material. For that reason, it cannot be safely assumed that those products are free from infectivity and therefore they could pose a risk if they entered the food and feed chain. Consequently, Article 3 of Regulation (EU) No 142/2011 and Annexes XIV and XV thereto should be amended accordingly.

(4) Article 18(1) of Regulation (EC) No 1069/2009 provides for derogations for the use of Categories 2 and 3 materials for feeding certain animals which do not enter the food chain, including circus animals. Because certain circus animals belong to species normally used for food production, it is necessary to subject the feeding of those materials to circus animals to the conditions laid down in Article 13 of Regulation (EU) No 142/2011.

(5) Article 19(1)(f) of Regulation (EC) No 1069/2009 provides for a derogation for the disposal of bees and apiculture by-products by burning or burial on site, under conditions which prevent the transmission of risk to public or animal health. Article 15(c) of Regulation (EU) No 142/2011 refers to special rules for collection and disposal of bees and apiculture by-products. The introductory phrase of that Article should therefore be corrected accordingly with a reference to special rules for collection and disposal of bees and apiculture by-products.

(6) Article 36(3) of Regulation (EU) No 142/2011 provides for a transitional period until 31 December 2012 for the disposal of small quantities of Category 3 material referred to in Article 10(f) of Regulation (EC) No 1069/2009. That transitional period should be extended for two additional years during which further data should be gathered on the collection, transport and disposal of the Category 3 material concerned.

(7) Processed animal protein derived from animal by-products, other than Category 3 materials referred to in Article 10(n), (o) and (p) of Regulation (EC) No 1069/2009, may be used as an ingredient for the production of processed petfood. Processed animal protein should not be declared as petfood unless it is mixed in appropriate proportions with other feeding substances which are normally consumed by the relevant species of pet animals. However, the producer of processed animal protein may dispatch the product to keepers of recognised kennels or packs of hounds and for feeding of dogs and cats in shelters for the production of mixed feed for dogs and cats. In such case, the product must be declared and labelled as processed animal protein. In the case of export of processed animal protein in addition to animal by-products legislation, the provisions of Regulation (EC) No 999/2001 of the European Parliament and of the Council[(4)] also apply. In accordance with point E2 of Part III of Annex IV to the aforementioned Regulation export of processed animal protein must be subject to a written agreement between Member States of origin of the processed animal protein and the third country of destination. Such an obligation does not exist in case of export of petfood. Given

the observed risk of inappropriate use of rules on export of processed animal protein a more precise definition of petfood is required.

(8) Transformation of animal by-products and derived products into biogas is authorised pursuant to Regulation (EC) No 1069/2009. The production of biogas leads to the generation of solid or liquid fractions. It is necessary to clarify that the requirements on the disposal of those residues apply to both fractions.

(9) In its opinion of 30 November 2010 on the abiotic risks for public and animal health of glycerine as a co-product from the biodiesel production from Category 1 animal by-products (ABP) and vegetable oils[(5)], EFSA acknowledged that glycerine which had been processed with method 1 referred to in Chapter III of Annex IV to Regulation (EC) No 142/2011 for the production of biodiesel is a safe material regarding the TSE risk. Glycerine as a co-product from biodiesel production may be transformed into biogas and digestion residues after biogas production and applied to land without risk to public and animal health within the national territory of the producing Member State, subject to the decision of the competent authority.

(10) Animal by-products referred to in Article 13(f) of Regulation (EC) No 1069/2009 may be applied to land without processing if the competent authority does not consider they present a risk for the spread of any serious transmissible disease. The same products may be composted or transformed into biogas without prior processing.

(11) The standard wording for the description of animal by-products and derived products in trade between Member States set out in Annex VIII to Regulation (EU) No 142/2011 must be visibly and legibly displayed on the packaging, container or vehicle during transport and storage. The list of standard wordings should be extended in order to take account of trade in processed manure.

(12) Article 48 of Regulation (EC) No 1069/2009 requires operators to inform the competent authority of the Member State of destination of their intention to dispatch consignments of Category 1 or 2 materials. Member States may conclude bilateral agreements to provide the services of their facilities for the purpose of cremating pet animals from other Member States sharing a common border. In such cases, the requirement laid down in Article 48(1) to (3) of Regulation (EC) No 1069/2009 presents unnecessary additional administrative burdens.

(13) Chapter II of Annex X to Regulation (EU) No 142/2011 sets out specific requirements for derived products which are intended for the production of feed materials. The wording of the derogation for the placing on the market of milk processed in accordance with national standards should be amended in order to also refer to milk-based and milk-derived products and thus to align Part II of Section 4 of that Chapter with the provisions in Article 10 of Regulation (EC) No 1069/2009, in particular to its point (f) with authorisation of processing certain former foodstuffs into material for feeding of farmed animals other than fur animals.

(14) When former foodstuffs containing ingredients of animal origin are used as source material for the production of feed for farmed animals, specific requirements apply to prevent the risk of disease transmission to animals. However, if the former foodstuffs

do not contain meat, fish or their products, their use for the production of feed destined to farmed animals should be permitted, provided that they do not pose any risk of transmission of diseases communicable to humans or animals.

(15) Article 32 of Regulation (EC) No 1069/2009 lays down conditions for placing on the market and use of organic fertilisers and soil improvers. Those products may be produced from Categories 2 and 3 materials in accordance with the requirements set out in Annex XI to Regulation (EU) No 142/2011. In case of processed animal protein of Category 3 material, specific production requirements laid down in Chapter II of Annex X to Regulation (EU) No 142/2011 must be respected including for processed animal protein where it is exclusively destined for use in petfood. For the sake of clarity it is necessary to amend Annex XI to Regulation (EU) No 142/2011 and to introduce references to any processing standards for processed animal proteins.

(16) For the promotion of science and biodiversity research, a derogation should be granted to repositories, scientific organisations and museums as regards the collection, transport and use of animals or parts of animals preserved in media, embedded completely on micro-slides or as processed genetic samples. The requirements on game trophies and other preparations as set out in Chapter VI of Annex XIII to Regulation (EU) No 142/2011 should be amended accordingly.

(17) Table 2 of Section 1 of Chapter II of Annex XIV to Regulation (EU) No 142/2011 sets out requirements for imports of animal by-products into the Union. The wording of certain parts of Table 2 should be improved in order to provide clearer information. In case of certain commodities which may consist of animal by-products of different animals, the list of third countries authorised for the import of animal by-products of the relevant species in Table 2 should be amended accordingly. The changes should be reflected in the corresponding certificates set out in Annex XV to that Regulation.

(18) Petfood may be produced from any Category 3 material other than the Category 3 materials referred to in Article 10(n), (o) and (p) of Regulation (EC) No 1069/2009. The same rules which apply for placing on the market of petfood within the EU are to be applicable also for the import from third countries. Certificate Chapter 3(B) of Annex XV to Regulation (EU) No 142/2011 should be extended with reference to Article 10(c) of Regulation (EC) No 1069/2009.

(19) Certain requirements on the import of blood and blood products should be clarified, in particular those concerning the origin of the blood. Blood must come from safe sources which may be a slaughterhouse approved in accordance with the EU legislation, a slaughterhouse approved with national legislation of the third country or from live animals bred for such purposes. Blood from such safe sources may also be mixed. It is necessary to change the text of the relevant certificates accordingly. Annex XIV and the health certificates set out in Chapters 4(A), 4(C) and 4(D) of Annex XV to Regulation (EU) No 142/2011 should therefore be amended.

(20) Annex XVI to Regulation (EU) No 142/2011 sets out rules on official controls regarding the feeding of necrophagous birds with Category 1 material. In accordance with Article 18 of Regulation (EC) No 1069/2009, the competent authority may authorise the feeding of Category 1 material to endangered or protected species of necrophagous birds

and other species living in their natural habitat. The existing rules on official controls regarding the feeding of necrophagous birds should therefore be extended to all animals to which feeding of Category 1 material may be authorised according to Annex VI to Regulation (EU) No 142/2011.

(21) Regulation (EU) No 142/2011 should therefore be amended accordingly.

(22) In order to avoid disruptions of trade, a transitional period should be laid down during which imports of the commodities to which the provisions of Regulation (EU) No 142/2011, as amended by this Regulation, apply should be accepted by Member States in accordance with the rules in force prior to the entry into force/date of application of this Regulation.

(23) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health, and neither the European Parliament nor the Council has opposed them,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EU) No 142/2011 is amended as follows:

(1) in Article 3, point (i) is replaced by the following:

(i) gasoline and fuels which fulfil the specific requirements for products from the multi-step catalytic process for the production of renewable fuels set out in point 2(c) of Section 3 of Chapter IV of Annex IV;

(j) oleochemical products derived from rendered fats and which fulfil the requirements set out in Chapter XI of Annex XIII.;

(2) Article 13 is amended as follows:

(a) in paragraph 1, point (e) is replaced by the following:

(e) maggots and worms for fishing bait;

(f) circus animals.;

(b) in paragraph 2, point (e) is replaced by the following:

(e) maggots and worms for fishing bait;

(f) circus animals.;

(3) in Article 15, the introductory phrase is replaced by the following:

If the competent authority authorises the disposal of animal by-products by way of the derogation provided for in Article 19(1)(a), (b), (c), (e) and (f) of Regulation (EC) No 1069/2009, the disposal shall comply with the following special rules set out in Chapter III of Annex VI:;

(4) in Article 36(3), the date ‘31 December 2012’ is replaced by ‘31 December 2014’;

(5) Annexes I, IV, V, VI, VIII, X, XI and Annexes XIII to XVI are amended in accordance with the text in the Annex to this Regulation.