Regulation (EC) No 220/2009 of the European Parliament and of the Council of 11 March 2009 amending Regulation (EC) No 999/2001 laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies, as regards the implementing powers conferred on the Commission

REGULATION (EC) No 220/2009 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

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THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 152(4)(b) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee[(1)],

Having consulted the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty[(2)],

Whereas:

(1) Regulation (EC) No 999/2001 of the European Parliament and of the Council[(3)] provides that certain measures are to be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission[(4)].

(2) Decision 1999/468/EC has been amended by Council Decision 2006/512/EC[(5)], which introduced the regulatory procedure with scrutiny for the adoption of measures of general scope and designed to amend non-essential elements of a basic instrument adopted in accordance with the procedure referred to in Article 251 of the Treaty, *inter alia*, by deleting some of those elements or by supplementing the instrument with new non-essential elements.

(3) In accordance with the statement by the European Parliament, the Council and the Commission[(6)] concerning Decision 2006/512/EC, for the regulatory procedure with scrutiny to be applicable to instruments adopted in accordance with the procedure referred to in Article 251 of the Treaty which are already in force, those instruments must be adjusted in accordance with the applicable procedures.

(4) As regards Regulation (EC) No 999/2001, Regulation (EC) No 1923/2006 of the European Parliament and of the Council[(7)] introduced the regulatory procedure with scrutiny only for certain implementing measures which were concerned by the

amendments. Therefore, Regulation (EC) No 999/2001 should be adapted for the remaining implementing powers.

(5) In particular, the Commission should be empowered to approve rapid tests, to extend certain provisions to other products of animal origin, to adopt implementing rules including the method to confirm Bovine Spongiform Encepalopathy (BSE) in ovine and caprine animals, to modify the Annexes and to adopt transitional measures. Since those measures are of general scope and are designed to amend non-essential elements of Regulation (EC) No 999/2001, *inter alia*, by supplementing it with new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.

(6) It is also appropriate to limit, following confirmation of the presence of a transmissible spongiform encepalopathy (TSE), the possibility for Member States to apply other measures to cases where the approval of those measures by the Commission is based on a favourable risk assessment taking particularly into account the control measures in that Member State, and where those measures offer an equivalent level of protection.

(7) Regulation (EC) No 999/2001 should be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 999/2001 is hereby amended as follows:

1. in Article 5(3), the third subparagraph shall be replaced by the following:

> The rapid tests shall be approved for that purpose in accordance with the regulatory procedure with scrutiny referred to in Article 24(3) and entered on a list set out in Annex X, Chapter C, point 4.;

2. Article 9(3) shall be replaced by the following:

3. Paragraphs 1 and 2 shall not apply, in the light of the criteria set out in point 5 of Annex V, to ruminants which have undergone an alternative test which has been recognised in accordance with the regulatory procedure with scrutiny referred to in Article 24(3), provided that this test is listed in Annex X, where the results of the test were negative.;

3. In Article 13(1), the third subparagraph shall be replaced by the following:

> By way of derogation from this paragraph, a Member State may apply other measures offering an equivalent level of protection based on a favourable risk assessment pursuant to Articles 24a and 25, taking particularly into account the control measures in that Member State, if those measures have been approved for that Member State in accordance with the regulatory procedure referred to in Article 24(2).;

4. Article 16(7) shall be replaced by the following:

7. In accordance with the regulatory procedure with scrutiny referred to in Article 24(3), the provisions of paragraphs 1 to 6 may be extended to other products of animal origin. Rules for the implementation of this Article shall be adopted in accordance with the regulatory procedure referred to in Article 24(2).;