Commission Regulation (EC) No 956/2008 of 29 September 2008 amending Annex IV to Regulation (EC) No 999/2001 of the European Parliament and of the Council laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies (Text with EEA relevance)

COMMISSION REGULATION (EC) No 956/2008

of 29 September 2008

amending Annex IV to Regulation (EC) No 999/2001 of the European Parliament and of the Council laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 999/2001 of the European Parliament and of the Council of 22 May 2001 laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies[(1)], and in particular the second paragraph of Article 7(3), the first paragraph of Article 23 and Article 23a(d) thereof,

Whereas:

(1) Regulation (EC) No 999/2001 lays down rules for the prevention, control and eradication of transmissible spongiform encephalopathies (TSEs) in animals. It applies to the production and placing on the market of live animals and products of animal origin and in certain specific cases to exports thereof.

(2) Article 7(1) of Regulation (EC) No 999/2001 provides that the feeding to ruminants of protein derived from animals is prohibited. However, Article 7(3) of that Regulation provides for a derogation from that prohibition for the feeding to young animals of ruminant species of proteins derived from fish, subject to certain conditions. Those conditions include a scientific assessment of the dietary needs of young ruminants and an assessment of the control aspects of such a derogation.

(3) Part II of Annex IV to Regulation (EC) No 999/2001 sets out the derogations from the prohibition provided for in Article 7(1) of that Regulation and the specific conditions for the application of such derogations.

(4) On 24 January 2007 the European Food Safety Authority adopted an opinion on the assessment of the health risks of feeding of ruminants with fishmeal in relation to the risk of TSE. The opinion concluded that the risk of TSE in fish, either being fed directly or by amplification of infectivity is remote. It also found that if there is any risk of TSE in fishmeal this could arise from the mammalian feed recently being fed to these fish or through fishmeal contaminated by MBM.

(5) On 19 March 2008, a report by the Directorate-General for Health and Consumers, carried out with the assistance of a number of scientific experts, was completed. That report concludes that fishmeal is an easily digested protein source with a digestibility lower than milk but higher than most proteins of plant origin and a good amino acid profile compared with vegetable protein sources actually used in milk replacers and that the feeding of young animals of ruminant species with fish meal could be allowed.

(6) Taking account of the condition concerning an assessment of control aspects provided for in Article 7(3) of Regulation (EC) No 999/2001, the potential risk of the feeding to young animals of ruminant species of fishmeal is counterbalanced by the existing strict processing rules imposed on the production of fishmeal and the controls on each consignment of imported fishmeal before release for free circulation in the Community

(7) In addition, to ensure that the use of fishmeal is only allowed for young animals of ruminant species, such use should be limited to the production of milk replacers, distributed in dry form and administered after dilution in a given quantity of liquid, intended for feeding to young animals of ruminant species as a supplement to, or substitute for, post-colostral milk before weaning is complete. Also, strict rules for implementation should be imposed on the production, packaging, labelling and transport of milk replacers containing fishmeal intended for such animals.

(8) For clarity and consistency the same rules related to labelling accompanying document of feedingstuffs containing fishmeal destined for non-ruminants should be laid down.

(9) Point E.1. of Part III of Annex IV to Regulation (EC) No 999/2001 provides that exports to third countries of processed animal proteins derived from ruminants, and of products containing such processed animal proteins, is prohibited.

(10) However, the use of such proteins for the production of petfood is currently allowed within the Community. In the interest of consistency of Community legislation, it is appropriate to allow exports of processed petfood including canned petfood which contains processed animal proteins derived from ruminants to third countries.

(11) Regulation (EC) No 999/2001 should therefore be amended accordingly.

(12) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS REGULATION:

Article 1

Annex IV to Regulation (EC) No 999/2001 is amended in accordance with the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the 20th day following 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, 29 September 2008.

For the Commission

Androulla VASSILIOU

Member of the Commission

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EC) No 956/2008. (See end of Document for details)*

ANNEX

Annex IV to Regulation (EC) No 999/2001 is amended as follows:

(1) Part II is amended as follows:

(a) in point A, the following point (e) is added:

(e) the feeding to unweaned farmed animals of the ruminant species of fishmeal in accordance with the conditions laid down in point BA).;

(b) point B is amended as follows:

(i) point (d) is replaced by the following:

(d) the commercial document accompanying consignments of feedingstuffs containing fishmeal and any packaging containing such consignments, must be clearly marked with the words “contains fishmeal — must not be fed to ruminants”.;

(ii) the following point BA is added:

BA The following conditions shall apply for the use of fishmeal referred to in point A(e) and feedingstuffs containing fishmeal in the feeding of unweaned farmed animals of the ruminant species:

(a) the fishmeal shall be produced in processing plants dedicated exclusively to the production of fish-derived products;

(b) before release for free circulation in the Community, each consignment of imported fishmeal shall be analysed by microscopy in accordance with Directive 2003/126/EC;

(c) the use of fishmeal for young farmed animals of the ruminant species will only be authorised for the production of milk replacers, distributed in dry form and administered after dilution in a given quantity of liquid, intended for the feeding of unweaned ruminants as a supplement to, or substitute for, post-colostral milk before weaning is complete;

(d) milk replacers containing fishmeal intended for young farmed animals of the ruminant species shall be produced in establishments which do not produce other feedingstuffs for ruminants and which are authorised for this purpose by the competent authority.

By way of derogation from point (d), the production of other feedingstuffs for ruminants in establishments which also produce milk replacers containing fishmeal intended for young farmed animals of the ruminant species may be authorised by the competent authority subject to the following conditions: