Commission Regulation (EC) No 1576/2007 of 21 December 2007 amending Regulation (EC) No 92/2005 implementing Regulation (EC) No 1774/2002 of the European Parliament and the Council as regards means of disposal or uses of animal by-products (Text with EEA relevance)

COMMISSION REGULATION (EC) No 1576/2007

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(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 1774/2002 of the European Parliament and of the Council of 3 October 2002 laying down health rules concerning animal by-products not intended for human consumption[(1)], and in particular Article 4(2)(e), Article 5(2)(g) and Article 6(2)(i) thereof,

Whereas:

(1) Commission Regulation (EC) No 92/2005 of 19 January 2005 implementing Regulation (EC) No 1774/2002 of the European Parliament and of the Council as regards means of disposal or uses of animal by-products and amending its Annex VI as regards biogas transformation and processing of rendered fats[(2)] lays down implementing rules for certain alternative methods of disposal or use of animal by-products (alternative methods).

(2) In particular, Article 4 of Regulation (EC) No 92/2005 requires the marking of certain material arising from the use of alternative methods and determines the permitted end uses of such material. Regulation (EC) No 1774/2002, as amended by Commission Regulation (EC) No 1432/2007[(3)], lays down harmonised rules for the marking of animal by-products which contribute to their proper identification and improve their traceability of animal by-products. The reference to Annex VI of Regulation (EC) No 1774/2002 in Article 4(1) of Regulation (EC) No 92/2005 should be amended accordingly.

(3) On the basis of the opinion of the Scientific Panel on biological hazards of the European Food Safety Authority on the 'Biodiesel Process as a method for safe disposal of Category 1 animal by-products (ABP)' adopted on 2 June 2004[(4)], it is appropriate to permit additional end uses of Category 1, Category 2 and Category 3 materials, in accordance with the general principles laid down in Regulation (EC) No 1774/2002. The combustion of biodiesel produced in accordance with Annex IV of Regulation (EC) No 92/2005 in stationary or mobile engines should also be permitted.

(4) In particular, the landfill of material arising from the processing of Category 1 material on sites for which a permit has been issued in accordance with Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste[5] should now be permitted.

(5) Article 5 of Regulation (EC) No 92/2005 lays down certain special surveillance measures to be carried out in the first two years of implementation of certain alternative methods within a particular Member State. The requirements related to these surveillance measures should take into account experience with the practical application of a process developed in another Member State and should be adjusted to the objective to ensure a high level of protection of public and animal health. The designation and supervision of a pilot plant for the first use of an alternative method in each Member State concerned should therefore be subject to simplified conditions.

(6) The tests which have to be carried out during the initial stage of implementation of an alternative method should be based on the tests which were carried out for the assessment of the particular alternative method by the appropriate scientific body.

(7) The results of the additional surveillance in a particular Member State should be made available to other Member States for the evaluation of new applications for the use of one of the alternative methods concerned on their respective territories. Information should be provided to the contact points for alternative methods which are indicated on the list which is published electronically by the Commission.

(8) Regulation (EC) No 92/2005 should therefore be amended accordingly.

(9) 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

Regulation (EC) No 92/2005 is amended as follows:

1. In Article 4, paragraphs 1, 2 and 3 are replaced by the following:

1. Materials resulting from the processing of Category 1 and 2 materials, except biodiesel produced in accordance with Annex IV, shall be permanently marked in accordance with points 10 to 13 of Chapter I of Annex VI to Regulation (EC) No 1774/2002.

2 Materials resulting from the treatment of Category 1 material shall be disposed of by at least one of the following methods:

- a incineration or co-incineration in accordance with the provisions of Directive 2000/76/EC;
- b burial in a landfill for which a permit has been issued in accordance with Council Directive 1999/31/EC;
- c further transformation in a biogas plant and disposal of the digestion residues as provided for in points (a) or (b); or
- d in the case of biodiesel produced in accordance with Annex IV, combustion as a fuel.

3 Materials resulting from the treatment of Category 2 or 3 materials shall be:

a disposed of as provided for in paragraph 2 (a) or (b);

b further processed into fat derivatives for the uses referred to in Article 5(2)(b)(ii) of Regulation (EC) No 1774/2002, without the prior use of processing methods 1 to 5;

c used, transformed or disposed of directly as provided for in Article 5(2)(c)(i), (ii) and (iii) of Regulation (EC) No 1774/2002, without the prior use of processing method 1;

d in the case of materials other than biodiesel resulting from the biodiesel production process as defined in Annex IV, used for the production of technical products; or

e in the case of biodiesel produced in accordance with Annex IV, used as provided for in paragraph 2 (d).

2. Article 5 is replaced by the following:

Article 5

Additional surveillance on initial implementation

1 The following provisions shall apply for the first two years of implementation of the following processes for the treatment of Category 1 material:

a alkaline hydrolysis as defined in Annex I;

b high pressure hydrolysis biogas as defined in Annex III;

c biodiesel production process as defined in Annex IV.

2 The operator or supplier of the process shall designate a plant in at least one Member State where, at least annually, tests shall be undertaken to reconfirm the efficacy of the process with regard to animal and public health.

3 The competent authority of the Member State referred to in paragraph 2 shall ensure that:

a suitable tests are applied in the plant to the materials derived from the treatment steps, such as the liquid and solid residues, and any gas generated during the process;

b the official control of the plant includes a monthly inspection of the plant and a verification of the processing parameters and conditions applied; and

c the results of the official controls which have been carried out are made available to other Member States.

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.