Commission Regulation (EC) No 1292/2005 of 5 August 2005 amending Annex IV to Regulation (EC) No 999/2001 of the European Parliament and of the Council as regards animal nutrition (Text with EEA relevance)

COMMISSION REGULATION (EC) No 1292/2005

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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 first paragraph of Article 23 thereof,

Whereas:

(1) Regulation (EC) No 999/2001 lays down rules on the feeding of proteins derived from animals in order to prevent the dissemination of transmissible spongiform encephalopathies (TSEs) to animals.

(2) That Regulation prohibited the use of certain animal proteins in the feeding of farmed animals either because such proteins may potentially contain TSE infectivity or because they could jeopardise the detection of small amounts of potentially TSE infected proteins in feedingstuffs. It also established zero-tolerance of prohibited animal constituents in feedingstuffs.

(3) Commission Directive 2003/126/EC of 23 December 2003 on the analytical method for the determination of constituents of animal origin for the official control of feedingstuffs[(2)] provides that official analysis of feedingstuffs with a view to officially control the presence, identification or estimation of the amount of constituents of animal origin in feedingstuffs are to be carried out in accordance with that Directive. Proficiency testing of laboratories, carried out in accordance with that Directive by the Commission's Institute for Reference Materials and Measurements (IRMM-JRC), has demonstrated that the performance of laboratories for detecting small amounts of mammalian proteins in feedingstuffs has improved considerably.

(4) That improvement in laboratory performance has resulted in the detection of the adventitious presence of bone spicules, particularly in tuber and root crops. Scientific evidence has demonstrated that contamination of such crops by bone spicules present in the soil cannot be avoided. Consignments of contaminated tuber and root crops are to be disposed of in accordance with Council Directive 95/53/EC of 25 October 1995

fixing the principles governing the organisation of official inspections in the field of animal nutrition[3], and often have to be destroyed as a result. In order to prevent a disproportionate application of that Directive, Member States should be allowed to make a risk assessment on the presence of animal constituents in tuber and root crops before considering a breach of the feed ban.

(5) On 25 and 26 May 2000, the Scientific Steering Committee (SSC) updated its report and opinion on the safety of hydrolysed proteins produced from ruminant hides, adopted during its meeting of 22 and 23 October 1998. The conditions under which hydrolysed proteins may be considered safe according to that opinion are laid down in 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[4]. Since 1 May 2004, those conditions have also applied to hydrolysed proteins imported from third countries. Therefore the feeding to ruminants of hydrolysed proteins produced from ruminant hides and skins ruminants should no longer be prohibited.

(6) In its opinion of 17 September 1999 on intra-species recycling, and again in its opinion of 27 and 28 November 2000 on the scientific basis for banning animal protein from feed for all farmed animals, the SSC stated that there is no evidence of the natural occurrence of TSE in non-ruminant farmed animals producing food, such as pigs and poultry. Furthermore, given that controls on the ban on animal proteins are based on the detection of bones and muscles fibres in feedingstuffs, blood products and hydrolysed proteins derived from non-ruminants should not jeopardise controls on the presence of potentially TSE infected proteins. Therefore, the restrictions on feeding to farmed animals of blood products and hydrolysed derived from non-ruminants should be relaxed.

(7) The conditions for transport, storage and packaging of bulk feedingstuffs containing processed animal proteins should be clarified.

(8) Continuous evaluation of the competence and training of laboratory staff should be provided for to maintain or improve the quality of the official controls.

(9) Regulation (EC) No 999/2001 should therefore be amended accordingly. For practical reasons and in the interests of clarity, it is appropriate to replace the amended Annex IV in its entirety.

(10) 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*.

It shall apply from 1 September 2005.

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

Done at Brussels, 5 August 2005.

For the Commission

Markos KYPRIANOU

Member of the Commission

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EC) No 1292/2005. (See end of Document for details)*

ANNEX

Annex IV to Regulation (EC) No 999/2001 is replaced by the following:

ANNEX IV

ANIMAL FEEDING

I. Extension of the prohibition provided for in Article 7(1)

The prohibition provided for in Article 7(1) shall be extended to the feeding:

(a) to farmed animals, with the exception of the feeding to carnivorous fur producing animals, of:

(i) processed animal protein;

(ii) gelatine of ruminant origin;

(iii) blood products;

(iv) hydrolysed protein;

(v) dicalcium phosphate and tricalcium phosphate of animal origin (dicalcium phosphate and tricalcium phosphate);

(vi) feedingstuffs containing the proteins listed in points (i) to (v).

(b) to ruminants, of animal protein and feedingstuffs containing such protein.

II. Derogations from the prohibitions provided for in Article 7(1) and (2), and specific conditions for the application of such derogations.

A. The prohibitions provided for in Article 7(1) and (2) shall not apply to:

(a) the feeding to farmed animals of the proteins referred to in points (i), (ii), (iii) and (iv) and of feedingstuffs derived from such proteins:

(i) milk, milk-based products and colostrum;

(ii) eggs and egg products;

(iii) gelatine derived from non-ruminants;

(iv) hydrolysed proteins derived from parts of non-ruminants and from ruminant hides and skins;

(b) the feeding to non-ruminant farmed animals of the proteins referred to in points (i), (ii) and (iii), and of products derived from such proteins:

(i) fishmeal, in accordance with the conditions laid down in point B;

(ii) dicalcium phosphate and tricalcium phosphate, in accordance with the conditions laid down in point C;

(iii) blood products derived from non-ruminants in accordance with the conditions laid down in point D;

***Changes to legislation:** There are currently no known outstanding effects for the Commission Regulation (EC) No 1292/2005. (See end of Document for details)*

(c) the feeding to fish of blood meal derived from non-ruminants in accordance with the conditions laid down in point D;

(d) the feeding to farmed animals of tuber and root crops and feedingstuffs containing such products following the detection of bone spicules may be permitted by the Member States if there has been a favourable risk assessment. The risk assessment shall take into account at least the amount and possible source of contamination and the final destination of the consignment.

B. The following conditions shall apply for the use of fishmeal referred to in point A(b)(i) and feedingstuffs containing fishmeal in the feeding of non-ruminant farmed animals (not applicable to the feeding of carnivorous fur producing animals):

(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) feedingstuffs containing fishmeal shall be produced in establishments which do not produce feedingstuffs for ruminants and which are authorised for this purpose by the competent authority.

By way of derogation from point (c):

(i) a specific authorisation for the production of complete feedingstuffs from feedingstuffs containing fishmeal shall not be required for home compounders:

— registered by the competent authority,

— keeping only non-ruminants,

— producing complete feedingstuffs for use only in the same holding, and

— provided that the feedingstuffs containing fishmeal used in the production contain less than 50 % crude protein;

(ii) the production of feedingstuffs for ruminants in establishments which also produce feedingstuffs containing fishmeal for other animal species may be authorised by the competent authority subject to the following conditions:

— bulk and packaged feedingstuffs destined for ruminants are kept in facilities physically separate from those for bulk fishmeal and bulk feedingstuffs containing fishmeal during storage, transport and packaging,

— feedingstuffs destined for ruminants are manufactured in facilities physically separate from facilities where feedingstuffs containing fishmeal are manufactured,

— records detailing the purchases and uses of fishmeal and the sales of feedingstuffs containing fishmeal are kept available to the competent authority for at least five years, and