Commission Regulation (EC) No 1492/2004 of 23 August 2004 amending Regulation (EC) No 999/2001 of the European Parliament and of the Council as regards eradication measures for transmissible spongiform encephalopathies in bovine, ovine and caprine animals, the trade and importation of semen and embryos of ovine and caprine animals and specified risk material (Text with EEA relevance)

COMMISSION REGULATION (EC) No 1492/2004

of 23 August 2004

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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 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 for eradication measures to be carried out following the confirmation of transmissible spongiform encephalopathy (TSE) in bovine, ovine and caprine animals.

(2) On 14 September 2000, in its opinion on bovine spongiform encephalopathy (BSE)-related culling in cattle, the Scientific Steering Committee (SSC) concluded that largely the same effect can be reached by birth cohort culling as by herd culling. On 21 April 2004, the Biological Hazards panel of the European Food Safety Authority adopted an opinion in which it concludes that insufficient additional argument exists to modify the SSC opinion. The provisions relating to culling in Regulation (EC) No 999/2001 should be brought into line with those opinions.

(3) In the interest of certainty of Community legislation, it is also necessary to clarify the definition of the cohort of a BSE case and the action to be taken regarding cohort animals in order to avoid different interpretations.

(4) In addition, it is necessary to clarify the application of TSE eradication measures as they apply to pregnant ewes and to holdings containing multiple flocks. To address practical problems, the rules should be amended regarding holdings producing lambs for further fattening, the introduction of ewes of unknown genotype to infected holdings, and the time period during which derogations are to apply for the destruction of animals in holdings or breeds in which the frequency of the ARR allele is low.

(5) Scrapie eradication measures, as advised in the opinion of the SSC of 4 April 2002, were inserted in Regulation (EC) No 999/2001, as amended by Commission Regulation (EC) No 260/2003[(2)]. Those measures were introduced on a gradual basis, in order to take account of management issues. According to currently available evidence, it is highly unlikely that the carcases of animals of less than two months of age contain significant amounts of infectivity, provided that the offal including the head is removed. Further amendments to the eradication measures should be made to resolve problems encountered in some Member States in relation to those young animals.

(6) It is appropriate to introduce restrictions on holdings following the suspicion of scrapie in an ovine or caprine animal in order to avoid movement of other possibly infected animals prior to confirmation of the suspicion.

(7) Testing requirements to permit the lifting of restrictions on infected holdings have proven to be excessively onerous for large flocks of sheep and should be amended. It is also appropriate to clarify the definition of the target groups for such testing.

(8) General rules regarding the trade and importation of semen and embryos of ovine and caprine animals are laid down in Council Directive 92/65/EEC[(3)]. Specific TSE rules for the placing on the market of semen and embryos of those species should be laid down in this Regulation.

(9) In line with the current provisions provided for in Regulation (EC) No 999/2001 on specified risk material to exclude the transverse processes of the lumbar and thoracic vertebrae from the list of specified risk material, the spinous processes of these vertebrae, the spinous and transverse processes of the cervical vertebrae and the median sacral crest should also not be considered as specified risk material.

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

(11) 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

Annexes I, VII, VIII, IX and XI to Regulation (EC) No 999/2001 are amended in accordance with the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the 20th day following that of its publication in the *Official Journal of the European Union*.

Points 3 and 4 of the Annex to the present Regulation shall apply from 1 January 2005.

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

Done at Brussels, 23 August 2004.

For the Commission

David BYRNE

Member of the Commission

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EC) No 1492/2004. (See end of Document for details)*

ANNEX

Annexes I, VII, VIII, IX and XI to Regulation (EC) No 999/2001 are amended as follows:

1. In Annex I, point 2 is replaced by the following:

2. For the purpose of this Regulation, the following

(a) "indigenous case of BSE" means a case of bovine spongiform encephalopathy which has not been clearly demonstrated to be due to infection prior to importation as a live animal;

(b) "discrete adipose tissue" means internal and external body fat removed during the slaughter and cutting process, in particular fresh fat from the heart, caul and kidney of bovine animals, and fat from cutting rooms;

(c) "cohort" means a group of bovine animals which includes both:

(i) animals born in the same herd as the affected bovine animal, and within 12 months preceding or following the date of birth of the affected bovine animal; and

(ii) animals which at any time during the first year of their lives were reared together with the affected bovine animal during the first year of its life;

(d) "index case" means the first animal on a holding, or in an epidemiologically defined group, in which a TSE infection is confirmed.

2. Annex VII is replaced by the following:

ANNEX VII

ERADICATION OF TRANSMISSIBLE SPONGIFORM ENCEPHALOPATHY

1. The inquiry referred to in Article 13(1)(b) must identify:

(a) in the case of bovine animals:

— all other ruminants on the holding of the animal in which the disease was confirmed,

— where the disease was confirmed in a female animal, its progeny born within two years prior to, or after, clinical onset of the disease,

— all animals of the cohort of the animal in which the disease was confirmed,

— the possible origin of the disease,

— other animals on the holding of the animal in which the disease was confirmed or on other holdings which may have become infected by the TSE agent or been exposed to the same feed or contamination source,

***Changes to legislation:** There are currently no known outstanding effects for the Commission Regulation (EC) No 1492/2004. (See end of Document for details)*

— the movement of potentially contaminated feedingstuffs, of other material or any other means of transmission, which may have transmitted the TSE agent to or from the holding in question;

(b) in the case of ovine and caprine animals:

— all ruminants other than ovine and caprine animals on the holding of the animal in which the disease was confirmed,

— in so far as they are identifiable, the parents, and in the case of females all embryos, ova and the last progeny of the female animal in which the disease was confirmed,

— all other ovine and caprine animals on the holding of the animal in which the disease was confirmed in addition to those referred to in the second indent,

— the possible origin of the disease and the identification of other holdings on which there are animals, embryos or ova which may have become infected by the TSE agent or been exposed to the same feed or contamination source,

— the movement of potentially contaminated feedingstuffs, other material or any other means of transmission, which may have transmitted the BSE agent to or from the holding in question.

2. The measures laid down in Article 13(1)(c) shall comprise at least:

(a) in the case of confirmation of BSE in a bovine animal, the killing and complete destruction of bovine animals identified by the inquiry referred to in the second and third indents of point 1(a); however, the Member State may decide:

— not to kill and destroy animals of the cohort referred to in the third indent of point 1(a) if evidence has been provided that such animals did not have access to the same feed as the affected animal,

— to defer the killing and destruction of animals in the cohort referred to in the third indent of point 1(a) until the end of their productive life, provided that they are bulls continuously kept at a semen collection centre and it can be ensured that they are completely destroyed following death;

(b) in the case of confirmation of TSE in an ovine or caprine animal, from 1 October 2003, according to the decision of the competent authority:

(i) either the killing and complete destruction of all animals, embryos and ova identified by the inquiry referred to in the second and third indents of point 1(b) or

(ii) the killing and complete destruction of all animals, embryos and ova identified by the inquiry referred to in the second and third indents of point 1(b), with the exception of:

— breeding rams of the ARR/ARR genotype,

— breeding ewes carrying at least one ARR allele and no VRQ allele and, where such breeding ewes are pregnant at the time of the inquiry, the lambs subsequently born, if their genotype meets the requirements of this subparagraph,